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FOR

ELECTION OFFICERS AND VOTERS

IN THE

STATE OF NEW YORK,

CONTAINING THE

General Election Law, Town Meeting Law, Provisions
Relating to School Meetings and the
Primary Law of 1899.

COMPLETE WITH AMENDMENTS TO DATE.

*ALSO PROVISIONS OF THE PENAL CODE, GENERAL LAWS AND
CONSTITUTION OF THE STATE OF NEW YORK RELAT-
ING TO ELECTIONS AND ELECTIVE OFFICERS,*

WITH

ANNOTATIONS, FORMS AND INSTRUCTIONS.

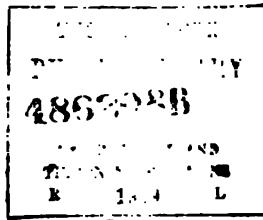
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21 /
By F. G. JEWETT,
Clerk to the Secretary of State.

1903. ✓

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Political Calendar, 1903.

Election day, Tuesday, November 3. Polls open 6 A. M., polls close 5 P. M.

Annual primary day, seventh Tuesday before the day of general election—September 15. In cities of the first class there is an additional primary day on the fifth Tuesday before general election day—September 29. In such cities such additional primary election will not be held in case no State convention is called for the nomination of a State officer. See Primary Election Law, § 4, subd. 1, post, p. 201.

Registration days in cities of the first class (New York, Brooklyn and Buffalo):

First day, Friday, October 9, 7 A. M. to 10 P. M.

Second day, Saturday, October 10, 7 A. M. to 10 P. M.

Third day, Friday, October 16, 7 A. M. to 10 P. M.

Fourth day, Saturday, October 17, 7 A. M. to 10 P. M.

Registration days in cities and villages of five thousand or more inhabitants, elsewhere than in cities of the first class, are held on the same days as in cities of the first class, from 8 A. M. to 9 P. M.

Registration in election districts other than in cities or villages of five thousand inhabitants or over are:

First day, Saturday, October 10, from 9 A. M. to 9 P. M.

Second day, Saturday, October 17, from 9 A. M. to 9 P. M.

Designation of polling places, September 1.

List of candidates for election officers in cities to be filed not later than July 1.

Appointment of election officers in cities on or before September 1.

Publication of polling places and election district boundaries in cities, October 8, 9, 10, 15, 16, 17, November 2 and 3.

Certificates of nominations to be filed with secretary of state:

Party certificates, September 24 to October 3.

Independent certificates, September 24 to October 9.

To be filed with county or city clerk, board of police or board of elections:

Party certificates, September 29 to October 9.

Independent certificates, September 29 to October 14.

Certification of nomination by secretary of state, October 20.

NYPL

Publication of nominations, October 28 to November 2, inclusive.

Lists of candidates to be posted by town clerk or alderman on or before October 31.

Declination of party nomination to be filed with secretary of state not later than October 9. Of independent nomination not later than October 14.

Declination of party nomination to be filed with county or city clerk, board of police or board of elections, not later than October 14. Of independent nomination not later than October 16.

Objection to nomination certificate must be made within three days after the filing thereof.

Vacancies in nominations caused by declination or disqualification must be filled by filing a certificate with secretary of state, county clerk or city clerk on or before October 19.

When a candidate dies after the official ballots have been printed, the vacancy can be filled by filing the proper certificate, and the officer providing the official ballot must then provide official pasters bearing the name of the new nominee. The pasters are affixed to the ballots by the ballot clerks before delivery to the electors.

The Election Law.

CHAP. 909.

AN ACT in relation to the elections, constituting chapter six of the general laws.

BECAME a law May 27, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER VI OF THE GENERAL LAWS.

The Election Law.

- ARTICLE** I. Times, places, notices, officers and expenses of elections.
 (Sections 1 to 19.)
 II. Registration of electors. (Sections 30 to 36.)
 III. Primaries, conventions and nominations. (Sections 50 to 66.)
 IV. Official and sample ballots, instruction cards and stationery.
 (Sections 80 to 89.)
 V. Conduct of elections. (Sections 100 to 114.)
 VI. County and state boards of canvassers. (Sections 130 to 141.)
 VII. Voting machines. (Sections 160 to 184.)
 VIII. Electors of president and vice-president and representatives in congress. (Sections 190 to 198.)

ARTICLE I.

Time, Places, Notices, Officers and Expenses of Elections.

- SECTION** 1. Short title.
2. Date of general election.
3. Time of opening and closing polls.
4. Filling of vacancies in elective offices.
5. Notice of elections.
6. Notice of submission of proposed constitutional amendments or other propositions or questions.

SECTION 7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.

8. Creation, division and alteration of election districts.
9. Maps and certificates of boundaries of election districts.
10. Designation of places for registry and voting.
11. Election officers; designation, number and qualification.
12. Appointment and qualification of election officers in cities.
13. Preservation of order by inspectors.
14. Organization of boards of inspectors; supplying vacancies and absences.
15. Preservation of order by inspectors.
16. Ballot boxes.
17. Voting booths and guard-rails.
18. Payment of election expenses.
19. Delivery of election laws to clerks, boards and election officers.

SECTION 1. Short title.—This chapter shall be known as the election law.

§ 2. Date of general election.—A general election shall be held annually on the Tuesday next succeeding the first Monday in November.

City elections.—In cities, except those of third class, elections to be held on date of general election in an odd numbered year. (*Const. § 3, art. 12.*)

General election day a public holiday.—“The term holiday includes the following days in each year: The first day of January, known as New Year’s day; * * * each general election day. * * * (*Pt. § 24, Statutory Construction Law.*)

Sale of liquor on election days.—“It shall not be lawful for any corporation, association, copartnership or person, whether having paid such tax or not, to sell, offer or expose for sale, or give away liquor:

* * * * *

“c. On the day of a general or special election, or city election, or town meeting, or village election, within one-quarter of a mile of any voting place, while the poll for such election or town meeting shall be open.” (*Pt. § 31, Liquor Tax Law.*)

No parade or drill of national guard on election day.—“No parade or drill of the active militia shall be ordered on any day during which an election shall be held, except in case of riot, invasion or insurrection, or imminent danger thereof.” (*Pt. § 81, Military Code, chap. 212, Laws 1898.*)

No tolls to be charged voters on election days.—“No tolls shall be charged or collected at any gate from any person going to and from public worship, a funeral, school, town meeting or election, at which he is a voter to cast his vote. * * *” (*Extract from § 130, Transportation Corporation Law.*)

Shall be considered as Sunday for such purposes as the presenting, protesting, etc., of bills of exchange, bank checks and promissory notes. (*Negotiable Inst. Law*, § 145.)

Shall be considered as Sunday as to the transaction of business in public offices of the state and the counties. (*Laws 1892, chap. 677, § 24.*)

Sheriffs' and county clerks' offices not to be open on election day. (*Laws 1895, chaps. 718, 961.*)

Sale of property in foreclosure of mortgage by advertisement not to be held on election day. (*Code Civ. Pro. § 2393.*)

Courts may sit on election day, the Election Law having repealed *Laws 1842, chap. 130*, which prohibited such sitting.

Issuance and service of legal process not prohibited on election day. (*Didsbury v. Van Tassel*, 56 Hun, 423.)

§ 3. Time of opening and closing polls.—The polls of every general election, and, unless otherwise provided by law, of every other election shall be opened at six o'clock in the forenoon and shall close at five o'clock in the afternoon. There shall be no adjournment or intermission until the polls are closed. The closing of the polls shall be deemed to mean the close of the delivery of official ballots to electors, and the electors entitled to vote who have lawfully begun the act of voting before the time fixed for the close of the polls, shall be allowed to complete the act. It shall not be lawful for any corporation, association, copartnership or person, to sell, offer or expose for sale, or give away, any liquor on the day of a general or special election, within one-quarter of a mile of any voting place, while the polls for such election shall be open. A violation of this provision shall be deemed a misdemeanor. (*Thus amended by chap. 654, L. 1901.*)

Local or special laws as to the opening of elections cannot be made by the legislature. (*Const. art. 3, sec. 18, subd. 9.*)

Amendments, however, may be made to such local or special laws as were in existence before 1875. (*People ex rel. Lardner v. Carson*, 10 Misc. 237, 246.)

Statute is directory, not imperative, as to the hours of opening and closing the polls; election not necessarily void because of a violation of statutory regulations, though inspectors might be liable to indictment therefor. (*People v. Cook*, 8 N. Y. 67, 91.)

§ 4. Filling vacancies in elective offices.—A vacancy occurring before October fifteenth in any year of any office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election. Upon the failure to elect to any office, except that of governor or lieutenant-governor, at a general or special election, at which such office is authorized to be filled, or upon the death or disqualification of a person elected to office before the commencement of his official term; or upon the

occurrence of a vacancy in any elective office which can not be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall be not less than twenty nor more than forty days from the date of the proclamation. A special election shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occurs before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occurs in either such office of senator or member of assembly after such first day of April and a special session of the legislature be called to meet between such first day of April and the next general election or be called after October fourteenth in such year. If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.

Legislature to provide for filling vacancies. (*See State Const. § 5, art. 10, post.*)

Vacancies in offices of judge of Court of Appeals and justice of Supreme Court occurring otherwise than by expiration of terms to be filled at next general election happening not less than three months after such vacancies occur and until so filled the governor may fill same by appointment which shall continue until and including the last day of December next after the election at which the vacancies shall be filled. (*State Const. §§ 8, 4, art. 6, post.*)

Vacancies in office of county judge and surrogate to be filled in same manner as like vacancies occurring in office of justice of supreme court. (*See State Const. § 15, art. 6.*)

Filling other vacancies in elective offices until filled by election. (*See article on State and County Officers, post.*)

A newly-created office is vacant upon the instant it is created unless the creating power appoints an officer to fill it. Thus where a town is divided into two parts, the new town has no town officers until the first town meeting is held, when officers will be elected to fill the vacancies thus existing. (*Matter of Collins, 16 Misc. Rep. 598.*)

§ 5. Notices of elections by secretary of state and county clerk.—The secretary of state shall, at least three months before each general election, make and transmit to the county clerk of each county, and the board of elections of the city of New York, a notice under his hand and official seal, stating the day upon which such election shall be held, and stating each officer, except city, village and town officers, who may be lawfully voted for at such election by the electors of such county or any part thereof. If any such officer is to be elected to fill a vacancy, the notice shall so state. The secretary of state shall forthwith, upon the filing in his office of the governor's proclamation ordering a special election, make and transmit to each county clerk and to the board of elections of the city of New York, a like notice of the officers to be voted for at such special election in such county or city or any part thereof, and cause such proclamation to be published in the newspapers published in such county having large circulation therein, at least once a week until such election shall be held. Each county clerk shall forthwith, upon the receipt of either such notice, file and record it in his office, and shall cause a copy of such notice to be published once in each week until the election therein specified in the newspapers designated to publish election notices. He shall also publish as a part of such notice, each city, village and town officer who may lawfully be voted for at such election by the electors of such county or any part thereof; *and the city, village and town clerks of each county shall at least three months before each general election make and transmit to the county clerk of the county, a notice under their respective hands and official seals, stating each city, village or town officer to be voted for at such election. (Thus amended by chap. 95, L. 1901, and chap. 232, L. 1901. Words in italics added by chap. 232, L. 1901.)*

Designation of newspapers to publish election notices made by board of supervisors of each county except Erie and Kings. (*Laws 1892, chap. 686, § 22.*)

Designation of newspapers to publish election notices reviewable by writ of certiorari. (*People ex rel. P. P. Co. v. Martin et al.*, 142 N. Y. 228.)

When election notice omits an office to be filled, such omission with the name of a candidate may be supplied by the voter. (*People ex rel. Goring v. President*, 144 N. Y. 616.)

§ 6. Notice of submission of proposed constitutional amendments or other propositions or questions.—Every amendment to the constitution proposed by the legislature, unless otherwise provided by law, shall be submitted to the people for approval at the next general election, after action by the legislature in accordance

with the constitution; and whenever any such proposed amendment to the constitution or other proposition or question provided by law to be submitted to a popular vote, shall be submitted to the people for their approval, the secretary of state shall include in his notice to the county clerk and the board of elections of the city of New York, of the general election, a copy of such amendment, proposition or question, and if more than one such amendment, proposition or question is to be voted upon at such election, such amendment, proposition or question, respectively, shall be separately and consecutively numbered. If such amendment, proposition or question is to be submitted at a special election, the secretary of state shall, at least twenty days before the election, make and transmit to each county clerk and the board of elections of the city of New York a like notice. Each county clerk shall, forthwith upon the receipt of such notice, file and record it in his office, and shall cause a copy of such notice to be published once a week until the election therein specified, in the newspapers designated to publish election notices. (*Thus amended by chap. 95, L. 1901.*)

§ 7. Publication of concurrent resolutions, proposed constitutional amendments and other propositions.—The secretary of state shall cause each concurrent resolution of the two houses of the legislature, agreeing to a proposed amendment to the constitution, which is referred to the legislature to be chosen at the next general election of senators, to be published once a week for three months next preceding such election, in two newspapers published in each county, representing the two political parties polling the highest number of votes at the then last preceding general election, and in one additional newspaper published in each county for every one hundred thousand people in such county, as shown by the then last preceding federal or state enumeration. Such additional newspapers shall be selected by the secretary of state with reference to making such publication in newspapers having the largest circulation in the county in which they are published. If such resolution does not state that such proposed amendment is so referred to such legislature, the secretary of state shall publish, in connection with the publication of such concurrent resolution, a statement that such amendment is referred to the legislature to be chosen at the next general election. The secretary of state shall cause such proposed amendment to the constitution or other proposition or

question, which is by law to be submitted to the electors of the state at a general or special election, to be published for a like period before such election in newspapers selected in like manner, together with a brief statement of the law or proceedings authorizing such submission, the fact that such submission will be made and the reading form in which it is to be submitted. If such proposed amendment or other proposition or question is to be submitted at a special election, to be held less than three months from the time of appointing it, the first publication in each newspaper shall be made as soon as practicable after such appointment, and shall continue once in each week to the time of the election.

Constitutional amendments to be agreed to by two successive legislatures and published for three months. (*Const. art. 14, § 1, post.*)

Laws creating debt to be submitted to people. (*Const. art. 7, § 4, post.*)

§ 8. Creation, division and alteration of election districts.—Every town or ward of a city not subdivided into election districts shall be an election district. The town board of every town containing more than four hundred electors, and the common council of every city except New York, in which there shall be a ward containing more than four hundred electors, shall, on or before the first day of July in each year, whenever necessary so to do, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, four hundred electors, but no such ward or town shall be again divided into election districts until, at some general election, the number of votes cast in one or more districts thereof shall exceed six hundred; and in such case the redivision shall apply only to the town or ward in which such district is situated. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city. A town or ward of a city containing less than four hundred electors may, at least thirty days before the election or appointment of inspectors of election of such town or ward, be divided into election districts by the board or other body charged with such duty when, in the judgment of such board or body, the convenience of the electors shall be promoted thereby. The creation, division or alteration of an election

district outside of a city shall take effect immediately after the next town meeting, and at such next town meeting inspectors of election shall be elected for each election district as constituted by such creation, division or alteration. If the creation, division or alteration of an election district is rendered necessary by the creation, division or alteration of a town, or ward of a city, it shall take effect immediately, but a new town or ward shall not be created, and no new town or ward shall be subdivided into election districts between the first day of August of any year, and the day of the general election next thereafter. If inspectors are not elected or appointed for such district outside of a city before September the first next thereafter, the town board of the town shall appoint four inspectors of election for such district. If a town shall include a city, or a portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purpose of town meetings. The board of elections of the city of New York shall divide such city into election districts on or before the first day of July in any year whenever necessary so to do as hereinafter provided. The election districts existing pursuant to the provisions of law in the counties within the city of New York, shall continue with their present boundaries, so far as possible, until at some general or city election the number of registered electors therein shall exceed six hundred and fifty, provided, however, that any election district containing less than seventy-five electors in such counties, made necessary by the crossing of congressional lines with other political divisions, may be consolidated with contiguous election districts in any year when no representative in congress is to be voted for in such districts. On or before the first day of July in every year the board of elections of the city of New York shall divide each election district of said city which contains more than six hundred and fifty electors, as shown by the registration of electors for the election of the preceding year, into two or more election districts. Such election districts so established in the city of New York shall not again be changed until at some general election the number of registered electors therein shall exceed six hundred and fifty, except where changes are made necessary by a change in the boundaries of congressional, senate, assembly or municipal court districts or ward lines, provided, however, that when the

election thereat, shall preserve the same when not in use, and shall deliver all such ballot and other boxes for each polling place, with the keys thereof, to the inspectors of each election district at least one-half hour before the opening of the polls at each election. The officers authorized to designate the registration and polling places in any city, except the city of New York, shall cause to be published in two newspapers within such city a list of such places so designated, and the boundaries of each election district in which such registration and polling place is located. Such publication shall be made in the newspapers so selected upon each day of registration and the day of election, and on the day prior to each such days. One of such newspapers so selected shall be one which advocates the principles of the political party polling the highest number of votes in the state at the last preceding election for governor, and the other newspaper so designated shall be one which advocates the principles of the political party polling the next highest number of votes for governor at said election. The board of elections of the city of New York shall cause to be published in two newspapers in each borough within such city a list of the registration and polling places so designated in each borough and the boundaries of each election district therein in which such registration and polling place is located; except that in the borough of Brooklyn, such publication shall be made in the newspapers designated to publish corporation notices therein; and except also that in the borough of Manhattan such publication shall be made in three daily newspapers published in the borough of Manhattan which advocate the principles of the political party polling the highest number of votes in the state at the last preceding election for governor, and also in three daily newspapers published in the borough of Manhattan which advocate the principles of the political party polling the next highest number of votes for governor at said election, and shall include the list of such registration and polling places and their boundaries, in the county of New York. Such publication shall be made in such newspapers upon each day of registration and the day of election and on the day prior to each of such days. Such publications shall be made in the newspapers published in such boroughs which shall respectively advocate the principles of the political parties which at the last preceding election for governor respectively cast the largest and next largest number of votes in the state for such office. The said board shall also cause to be published in the City Record on or before the first day of registration in each year a complete list of all the registration and polling places so designated and the boundaries of the election districts in which such places are located arranged in numerical order under the designation of the respective boroughs in which they are located. In

clerk shall, prior to every general election, furnish copies of such maps or certificates to the inspectors of election in each election district of such town, provided such election district is not coterminous with the town lines. (*Thus amended by chap. 89, L. 1902.*)

§ 10. **Designation of places for registry and voting, publication of same; and provision of furniture therefor.**—On the first Tuesday of September in each year, the town board of each town, and the common council of each city, except New York, and the board of elections of the city of New York shall designate the place in each election district in the city or town at which the meeting for the registration of electors and the election shall be held during the year. Each room so designated shall be of a reasonable size, sufficient to admit and comfortably accommodate at least ten electors at a time outside of the guard rail. No building, or part of a building, shall be so designated in any city if within thirty days before such designation, intoxicating liquors, ale or beer shall have been sold in any part thereof. No room shall be designated elsewhere in a city, if within thirty days before such designation, intoxicating liquors, ale or beer, shall have been sold in such room, or in a room adjoining thereto, with a door or passage-way between the two rooms. No intoxicating liquors, ale or beer shall be sold in such building in a city or such room or adjoining room elsewhere after such designation and before the general election next thereafter, or be allowed in any room in which an election is held during the day of the election or canvass of the votes. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor. If any place so designated shall thereafter and before the close of the election be destroyed, or for any reason become unfit for use, or can not for any reason be used for such purpose, the officers charged with the designation of a place for such election shall forthwith designate some other suitable place for holding such election. Not more than one polling place shall be in the same room, and not more than two polling places shall be in the same building. The officers authorized to designate such places in any town or city, shall provide for each polling place at such election, the necessary ballot and other boxes, guard rails, voting booths and supplies therein, and the other furniture of such polling place, necessary for the lawful conduct of each

election thereat, shall preserve the same when not in use, and shall deliver all such ballot and other boxes for each polling place, with the keys thereof, to the inspectors of each election district at least one-half hour before the opening of the polls at each election. The officers authorized to designate the registration and polling places in any city, except the city of New York, shall cause to be published in two newspapers within such city a list of such places so designated, and the boundaries of each election district in which such registration and polling place is located. Such publication shall be made in the newspapers so selected upon each day of registration and the day of election, and on the day prior to each such days. One of such newspapers so selected shall be one which advocates the principles of the political party polling the highest number of votes in the state at the last preceding election for governor, and the other newspaper so designated shall be one which advocates the principles of the political party polling the next highest number of votes for governor at said election. The board of elections of the city of New York shall cause to be published in two newspapers in each borough within such city a list of the registration and polling places so designated in each borough and the boundaries of each election district therein in which such registration and polling place is located; except that in the borough of Brooklyn, such publication shall be made in the newspapers designated to publish corporation notices therein; and except also that in the borough of Manhattan such publication shall be made in three daily newspapers published in the borough of Manhattan which advocate the principles of the political party polling the highest number of votes in the state at the last preceding election for governor, and also in three daily newspapers published in the borough of Manhattan which advocate the principles of the political party polling the next highest number of votes for governor at said election, and shall include the list of such registration and polling places and their boundaries, in the county of New York. Such publication shall be made in such newspapers upon each day of registration and the day of election and on the day prior to each of such days. Such publications shall be made in the newspapers published in such boroughs which shall respectively advocate the principles of the political parties which at the last preceding election for governor respectively cast the largest and next largest number of votes in the state for such office. The said board shall also cause to be published in the City Record on or before the first day of registration in each year a complete list of all the registration and polling places so designated and the boundaries of the election districts in which such places are located arranged in numerical order under the designation of the respective boroughs in which they are located. In

selecting the newspapers in which such publication is to be made the said board shall keep in view the object of giving the widest publicity thereto. (*Thus amended by chap. 95, L. 1901, and by chap. 197, L. 1903.*)

Supplies for polling places.—Ballots, cards of instruction, poll books, distance markers, tally sheets, inspector's and ballot clerk's returns and articles of stationery to be supplied by officers designated in Election Law. (*See § 86, Election Law.*)

Cards and markers not to be taken down.—The instruction cards and distance markers posted as provided by law shall not be taken down, torn nor defaced during such election. (*See § 100, Election Law.*)

Local bills designating places of voting not to be passed by legislature. (*Const. art. 3, § 18, subd. 9.*)

But this prohibition does not apply to amendments of statutes in force prior to adoption of constitution provision. (*People ex rel. Lardner v. Carson, 10 Misc. 237.*)

Liquor selling within one-quarter of a mile of and while polls are open a misdemeanor. (*Laws 1896, chap. 112, §§ 31, 34.*)

Removal, mutilation, etc., of public copy of registration.—"Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law." (*Subd. 2, § 35, Election Law.*)

Penalty for removal, mutilation or destruction of election booths, supplies, etc. (*See § 41, Penal Code, post.*)

§ 11. *Subdivision 1. Election officers; designation, number and qualifications.—There shall be in every election district of this state the following election officers, namely, four inspectors, two poll clerks and two ballot clerks, whose term of office, *except as hereinafter prescribed*, shall be for one year from the date of their appointment or election, and who shall serve at every general election, special or other election held within their districts during such term. *The term of office of inspectors of election in towns shall be for two years.* No person shall be appointed or elected an inspector of election, poll clerk or ballot clerk who is not a qualified elector of the county if within the city of New York or of any other city or of the election district of the town in which he is to serve, of good character, able to speak and read the English language understandingly, and to write it legibly, and who does not possess a general knowledge of the duties of the office to which he is elected or appointed, or who is a candidate for any office to be voted for by the electors of the district in which he is to serve,

* Thus amended by chaps. 95 and 516, L. 1901. Words in italics show the amendment of this section by chap. 536, L. 1901, which said amendment omitted subdivision two of said sections herein printed.

or, who has been convicted of a felony and not restored to citizenship, or who holds any public office except notary public or commissioner of deeds, town or village assessor, justice of the peace, village trustee, water commissioner, officer of a school district, overseer of highway, whether elected or appointed or who is employed in any public office or by any public officer whose services are paid for out of the public money other than is excepted herein. Each class of such officers shall be equally divided between the two political parties which at the general election next preceding that for which such officers are to serve, cast the highest and the next highest number of votes. Where election officers are appointed the qualifications required of them by this section shall be determined by an examination by or under the direction of the appointing board or officer. (*Thus amended by chap. 536, L. 1901.*)

Subdivision 2. Boards of elections established.—a. There shall be, and there is hereby established, a board of elections in every city of the first class in this state which does, or shall, contain within its boundaries one or more counties. The said board shall consist of four persons to be known and designated as commissioners of elections. Each of the said boards of elections shall be and are hereby charged with the duty of executing the provisions of the laws relating to all elections held within their respective cities, except as otherwise provided by law.

b. All such commissioners of elections shall be appointed by the mayor of the city, and shall hold office for a term of two years, except as hereinafter provided. Each of the said commissioners of elections shall be at the time of his appointment a resident of and a qualified elector of such city. No commissioner of elections shall hold any other office, except commissioner of deeds or notary public, during his term of office, nor shall he be a candidate for any elective office during such term, and any votes cast for any person for office, who shall have been a commissioner of elections within one hundred days of the election at which such votes were cast, shall be void and shall not be counted. A commissioner of elections may be removed from office by the governor for cause in the same manner as a sheriff. Any vacancy in the office of commissioner of elections shall be filled by the mayor of the city within five days after the vacancy has been created, and the person appointed to fill such vacancy shall hold office during the balance of the term of the commissioner in whose place he was appointed. At their first meeting the commissioners of elections shall organize as a board by electing one of their number as president and one as secretary, and in case no election can be had the members shall draw lots for such places. The board shall have

power to adopt such rules and regulations for the control and conduct of the affairs of such board and of its employes as are not inconsistent with or in violation of law. The board shall keep a record of their proceedings and shall make an annual report in the month of December of the affairs and proceedings of said board to the mayor of the city.

c. Within ten days after this act shall take effect the mayor of the city of New York shall appoint four persons as commissioners of elections, each of whom, at the time of his appointment, shall be a resident and qualified elector of the city of New York, and not more than two of whom shall belong to the same political party, or be of the same political opinion on state or national politics. The term of office of the commissioners so appointed shall be from the date of their appointment to twelve o'clock noon of January first, nineteen hundred and three, or until their successors have qualified. Upon the expiration of the term of office of the commissioners first appointed, and every two years thereafter, the mayor of the city of New York shall appoint four persons as commissioners of elections for the full term of two years, each of whom shall be as above provided a resident and qualified elector of the city of New York and not more than two of whom shall belong to the same political party or be of the same political opinion on state or national politics. The salary of each commissioner of elections shall be five thousand dollars a year, payable in equal monthly installments.

d. Within five days after this act takes effect, the respective chairmen of the county committees, within the counties of New York and Kings, of each of the two political parties which at the general election held in the year nineteen hundred cast the highest and the next highest number of votes for governor, shall each respectively file or cause to be filed with the mayor of the city of New York a certificate, duly executed over the signature of the chairman who makes the same, which certificate shall certify to the mayor of such city the name of a person who is a resident and qualified elector of the city of New York and who shall be recommended by the chairman making such certificate as being in his opinion, and in the opinion of the committee of which he is the chairman, a fit and proper person to be appointed a commissioner of elections. Each of such four certificates shall be substantially in the following form, to-wit:

"To Honorable.....,

Mayor of the City of New York.

I,, chairman of the county committee of the party, for the county of, do hereby, in accordance with the provisions of paragraph d of subdivision two of section eleven of the election law, certify that

in my opinion and in the opinion of the said committee,, a resident and qualified elector of the borough of, city of New York, is a fit and proper person to be appointed a commissioner of elections, and I do hereby recommend him for appointment to said office. In witness whereof, I have made and executed this certificate, this day of 19.."

Each of such certificates shall be duly acknowledged by the person executing the same, before a notary public or other officer authorized to take acknowledgments to deeds for record in this state. At least five days before the first day of January, nineteen hundred and three, and at least five days before the first day of January of each second year thereafter, the respective chairmen of the county committees, within the counties of New York and Kings, of each of the two political parties which at the general election last preceding the date of such certificate cast the highest and the next highest number of votes for governor, shall each respectively make and file or cause to be filed with the mayor of the city of New York, a certificate in substantially the form and executed and acknowledged as above provided, each of which four certificates shall respectively certify the name of a person who is a resident and qualified elector of the city of New York and who is recommended as a fit and proper person to be appointed a commissioner of elections for the term of two years beginning with the first day of January next ensuing. If at any time a vacancy arises in the office of commissioner of elections, through death, resignation, removal or inability to serve, the chairman of the county committee of the political party to which the commissioner creating such vacancy belonged, for the county of New York, if the commissioner creating such vacancy was a resident of the borough of Manhattan or of the borough of the Bronx of said city, or for the county of Kings if the commissioner creating such vacancy was a resident of any other borough of said city, shall make and file or cause to be filed with the mayor of the city of New York, a certificate in substantially the form and executed and acknowledged as above provided, certifying and recommending the name of a person, who is a resident and qualified elector of said city, as a fit and proper person to be appointed a commissioner of elections for the unexpired term of the commissioner creating such vacancy. At least two days time, after a vacancy has been created, for the making and filing of the certificate above provided for, shall be afforded by the mayor, before making any appointment to fill such vacancy, to the person upon whom the duty is imposed hereunder to make said certificate and file the same or cause the same to be filed.

e. Each and every certificate filed with the mayor of the city of New York in pursuance of the provisions of this act, shall be kept

by the mayor in some safe and secure place in his office, and shall be a public record open at all reasonable hours to the inspection of any person who may desire to see the same, it being the intention of this act, and said intention is hereby declared, to secure in the appointment of the members of the board of elections established by this act, equal representation of the two political parties which at the general election next preceding such appointment cast the highest and the next highest number of votes for governor, and the committees and chairmen of committees of which political parties have been duly elected as such under and in pursuance of the provisions of the primary election law.

f. The bureau in the police department of the city of New York, heretofore known and designated as the general bureau of elections, and the branches of said general bureau in the boroughs of the Bronx, Brooklyn, Richmond and Queens, together with the office of superintendent of elections of the city of New York, and the offices of the chiefs of the branch bureaus of elections in said respective boroughs, are hereby abolished, and all of the rights, powers, authority, duties and obligations immediately heretofore by law vested in and imposed upon the said bureau and branch bureaus, together with every right, power, authority, duty and obligation immediately heretofore by law vested in and imposed upon the police board of the city of New York, its successor or successors, with respect to general, special or primary elections, shall forthwith by force of and as an effect of this chapter be transferred to, imposed upon and continued in the board of elections of the city of New York hereby created.

g. All books, documents, papers, records and election appliances or appurtenances held or used by or under the control of the superintendent of elections and the chiefs of the branch bureaus of elections or under the control of the police board of the city of New York, its successors, or successor, shall be transferred to the care, custody and control of the board of elections upon demand by said board.

h. So far as practicable and necessary the chief clerks, clerks, assistant clerks and stenographers attached to and in the service of the general bureau of elections of the city of New York and of the branches of said general bureau in the respective boroughs at the time this act shall take effect shall be continued in the service and employment of the board of elections with the same salaries and, so far as practicable, the same duties until the first day of April, nineteen hundred and one, unless otherwise provided by the board of elections, which board shall have power to fix the number, salaries, duties and rank of such chief clerks, clerks, assistant clerks and stenographers and to appoint and remove and to fix the salaries of all employees of said board.

i. The board of elections shall have power to provide and maintain an office for such board in the borough of Manhattan which shall be the headquarters of said board, and to furnish the same with necessary furniture and office fixtures, and shall also provide, maintain and furnish an office in each other borough of the city of New York and shall place the same in the charge of a competent person. The general office of the board of elections shall, until otherwise located with the consent of the board of elections, be located at police headquarters, in the borough of Manhattan which shall be the headquarters of the said board as hereinbefore provided, and the several branch offices of the board of elections shall continue to be located in the rooms now occupied by them in the various boroughs of the city of New York, or be removed to other suitable locations in the respective boroughs. Said board of elections shall have full and complete control of the said branch offices of the board of elections and of all the offices, employes, affairs and administration of said branch offices. Every report, statement, certificate, document or paper which was immediately heretofore by the election law required or provided to be made, transmitted, rendered or delivered to or filed with the board of police or superintendent of elections in the city of New York, is hereby required to be made, transmitted, rendered or delivered to or filed with the said board of elections. Every provision of law relating to the doing of such acts or to the making and transmitting, rendering, delivering or filing such reports, statements, certificates, notices, documents or papers or to the effect thereof, or providing that other things shall be done in conjunction therewith or consequent thereon, shall, with the same force and effect apply to and operate upon the doing of such acts by the board of elections, and the making, transmitting, rendering, delivering or filing of such reports, statements, certificates, notices, documents or papers with said board. It shall be the duty of the commissioner of police and the officers and members of the police force, whenever called upon by the board of elections to render to said board all practicable assistance in the enforcement of the election and the primary election law, including the use of the police telephone service. The commissioner of police shall detail to the service of the board of elections upon its written request such patrolmen and other members of the police force as may be necessary from time to time for the faithful performance by said board of its functions and duties. All copies of police reports to commanding officers of precincts under subdivision three, of section thirty-two, of the election law, shall be forthwith transmitted by the precinct commander to the board of elections. All statements of canvass delivered to any officer in command of a precinct under subdivision three, of section one

hundred and ten, of the election law shall be forthwith transmitted by such precinct commander to the board of elections to be by them preserved with the same force and effect as if preserved by the police.

j. All sums necessary to pay the expenses of the board of elections of the city of New York, including the salaries of the commissioners of elections, chief clerks, clerks, assistant clerks and other employes and to meet and defray the charges and expenses of all elections lawfully held in the city of New York or in any territory included therein, shall be a charge against the said city, and shall upon proper certificates and vouchers be paid in the same manner as other expenses and charges against the said city are by law provided to be paid. Said charges and expenses, as estimated, shall be included in the annual budget of said city each year and in the yearly taxes levied upon the estates, real and personal, in the city of New York. The comptroller of the city of New York, is hereby authorized and directed to transfer to the credit of the board of elections all moneys remaining out of the appropriations for the year nineteen hundred and one, to the credit of the general bureau of elections and its branches, for defraying the expenses of said board of elections and its branches and other election expenses, and such moneys shall be paid out upon the authority of the board of elections. Any additional sum needed for the conduct of the business of the board of elections during the year nineteen hundred and one shall be provided by the board of estimate and apportionment of the city of New York, by the sale of bonds or otherwise.

k. The board of elections of the city of New York is hereby authorized and directed, not less than two years after each election, to sell or destroy all registers of electors in the possession of such board; provided, that one copy of such register of electors for each election district shall be excepted and preserved by such board from such sale or destruction. The board of elections is also authorized to sell to the highest bidder the unused ballots furnished for the last preceding election, but such unused ballots shall not be sold until at least six months after the election for which they were provided. All moneys realized by sales under this section shall be paid over to the proper fiscal officer of the

city of New York to the credit of the account of the board of elections.

1. Sections three hundred and fifty-eight to three hundred and seventy-one inclusive of chapter eight of the Greater New York charter, being chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven, entitled "An act to unite into one municipality under the corporate name of the city of New York the various communities lying in and about New York harbor, including the city and county of New York, the city of Brooklyn and the county of Kings, the county of Richmond and part of the county of Queens, and to provide for the government thereof," and all other laws or parts of laws inconsistent with or in conflict with this subdivision, whether general, special or local, are hereby repealed. (*Thus amended by chap. 95, L. 1901.*)

Qualifications.—Similar provisions in § 3, Pub. Off. Law, § 50, Town Laws, *post*. As to who is a qualified elector. (*See* § 34, *Election Law*.)

Bi-partisan election boards.—All laws creating, etc., election boards to secure equal representation of the two dominant political parties. (*See* § 6, *art. 2, Const., post*.)

Non-partisanship in election boards not required at town meetings or village elections. (*See* § 6, *art. 2, Const., post*.)

Compensation for attendance at elections, or registration days, etc. (*See* § 18, *Election Law*; § 178, *Town Law, as amended by chap. 292, L. 1900.*)

Persons serving temporarily as inspectors of election, shall serve without pay. (*See* § 14, *Election Law*.)

Exempt from civil service regulations.—All election officers are comprised in the unclassified civil service and are thereby exempt from examination and rules. (*See* § 8, *chap. 370, Laws 1890.*)

Exempt from jury duty.—Persons appointed and serving as election officers in cities of first class exempt from jury duty for one year from date of general election at which they serve. (*See* § 12, *Election Law*.)

No ballot clerks where ballot machines are adopted.—Ballot clerks shall not be elected or appointed for any district for which a voting machine shall have been adopted and which will be supplied and ready for use at the next election to be held therein. (*See* § 181, *Election Law*.)

Election not vitiated if inspectors or clerks fail to take oath, though such failure might be punished by indictment. (*People v. Cook*, 8 N. Y. 84.)

Acting as election officer without being qualified a misdemeanor. (*See* § 41k, *Penal Code, post*.)

Permitting persons to vote who are not entitled to vote a misdemeanor. (*See* § 41k, *Penal Code, post*.)

Misconduct of election officer punishable by imprisonment. (*See* § 41i, *Penal Code, post.*)

Violation of election law by public officer punishable by fine or imprisonment. (*See* § 41j, *Penal Code, post.*)

Acting in a public office without having qualified.—"A person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security, is guilty of a misdemeanor as prescribed by law." (*See* § 42, *Penal Code.*)

§ 12. **Appointment of election officers in cities.**—The board of elections of the city of New York and the mayor of each other city shall, on or before the first day of September of each year select and appoint election officers for each election district therein, and may fill any vacancy which may occur before the opening of the polls on election day. Each political party entitled to representation in any board of election officers may, not later than the first day of July in each year, file with such board or mayor an original list of persons, members of such party duly qualified to serve as election officers. A supplemental list of persons may also be filed containing not more than ten names for each office. Additional supplemental lists for any election district may be filed at any time before the appointments of such districts are made and certified by such board or mayor or when a vacancy shall exist in the original list by reason of the disqualification, resignation, declination or withdrawal of the name by the person or persons submitting the same of any person on such list, and all appointments shall be made from the original list if those named therein are found qualified; if not so qualified, then from a supplemental list so filed. If within ten days after notice in writing by the board or mayor to the chairman of the committee or other person by whom the list is filed or authenticated, such chairman or other person shall neglect to file an additional list, the board or mayor may appoint qualified persons, members of the party in default, to act as election officers. In the city of New York such lists shall be authenticated and filed by the chairman of the executive committee of the county committee of the party in the respective counties within such city; in other cities, by the chairman or secretary of the general city committee of such party, if there be such a committee, or if not, then by the chairman or secretary of the general county committee of such party, if there be such a committee, or if not, then by the corresponding officer of any committee performing the usual functions of a city or county com-

mittee; provided, however, that if in any city more than one such list be submitted in the name or on behalf of the same political party, only that list can be accepted which is authenticated by the proper officer or officers of the faction or section of such party, which was organized as regular by the last preceding state convention of such party; or, where no such convention has been held within the year, by the proper officer of the faction or section of said party, which, at the time of the filing of said list is recognized as regular by the state committee of such party, which was organized by or pursuant to the direction of the last preceding state convention of such party. All persons so proposed for appointment shall be examined as to their possessing the qualifications required by section eleven of the election law by or under the direction of the mayor or board, who shall give five days' notice in writing of such examination to the person to be examined, and also the chairman of the committee or other person by whom the list is filed and authenticated, and such chairman or other person may appear and be heard at such examination, either in person or by counsel. If a person so nominated after examination is found qualified, under section eleven of the election law, he shall be appointed to the position for which he was recommended. If a person so proposed is found disqualified after examination, notice in writing to that effect shall be given by the mayor or board within three days after such disqualification is determined by such mayor or board, to the chairman of the committee or other person by whom the list embracing the name of the person so disqualified was authenticated, and the vacancy shall be filled by the appointment of a qualified person named in a supplemental list filed on behalf of the same party, except that if a party entitled to representation files no list the appointment may be made without such list, as provided in this section after examination. In the city of New York the members of the board charged with the duty of appointing election officers, who represent the same political party, shall have the exclusive right and be charged with the exclusive duty of selecting from the list submitted, or, in lieu of said list, the members of such party who are to be appointed as election officers. Every person so appointed as an election officer shall, within five days after notice of his appointment, take and subscribe the constitutional and statutory oath of office, which shall be administered, if in the city of New York, by a commissioner of elections, or by any clerk or other employe of said board of elections who shall be designated by said board in

writing over the signature of its president to administer said oath of office; and if in any other city, by the mayor thereof or by any other person or persons designated by him for that purpose; and all of said officers, and every clerk or person so designated by them or him for that purpose, shall be and is hereby authorized as empowered to administer such oath. Every person so sworn as an election officer shall receive a certificate of appointment and qualification, signed by the person who administered the oath, in such form as may be approved by the board or officer by which or whom he was appointed, and specifying the capacity and election district in which he is to serve and to date the expiration of his term of office. Any election officer so appointed may be removed for cause by the board or mayor making the appointment, in which case such removal, unless made while such officer is actually on duty on the day of registration, revision of registration or election, and for improper conduct as election officer, shall only be made after notice in writing to the officers to be removed, which notice shall set forth clearly and distinctly the reasons for his removal. All such vacancies so created shall be filled in the same manner as the original appointment was made. Any election officer who shall at any time be appointed to fill a vacancy, which fact shall be stated in his certificate of appointment, shall hold office only during the unexpired term of his predecessor. No election officer shall be transferred from one election district to another after he has entered upon the performance of his duties, and no election officer shall serve in any county save that in which he shall reside. The chairman of each board of inspectors of each election district shall, within twenty-four hours of any election, furnish to the mayor or board appointing such officers, if required so to do by such mayor or board, under his hand, a certificate stating the number of days of actual service of each member of such board, the names of the persons who served as poll clerks and ballot clerks on election day, and the number of days during which the store, building or room hired for registration and election purposes was actually used for such purposes. Any person acting as such chairman, who shall wilfully make a false certificate shall be guilty of a misdemeanor. Every person appointed as an election officer, failing to take and subscribe the oath of office as hereinbefore subscribed or shall wilfully neglect or refuse to discharge the duties which he was appointed to perform, shall, in addition to the other penalties prescribed by law, be liable to a fine of one hundred dollars, to be sued for and recovered by the mayor or board making the appointment, in a court of record, for the use and benefits of the treasury of such city. Any elec-

tion officer who, being removed for cause, shall fail upon demand to deliver over to his successor the register of the electors, or any tally sheets, book, paper, memorandum or document relating to the registration of electors or the election in his possession, so far as he has made it, shall be liable to a like penalty to be recovered in a like manner for the benefit of such city. All persons appointed and serving as election officers on each of the days of registration and of election and of count of the votes in cities of the first class shall be exempt from jury duty for one year from the date of the general election at which they serve. Such officers shall be paid by the comptroller of the respective cities within twenty days after the election at which such officers served upon the certificate of the board or officer appointing them. (*Thus amended by chap. 95, L. 1901.*)

(For Forms under this section see "Forms" at end of this article.)

Election officers must be selected from state parties.—The choosing of election officers from an irregular local organization in disregard of lists filed and authenticated by the regular local organization is a violation of the election-law. (*People v. Gleason*, 18 Misc. 511; 42 N. Y. Supp. 1084.)

Only the two dominant political parties must be taken into consideration in choosing election boards, without regard to subordinate factions. (*People ex rel. Van Wyck v. Wheeler*, 18 Hun, 540.)

Failure to appoint inspectors within the time prescribed by law will not render subsequent appointments invalid in the absence of any statutory provision to that effect. (*People ex rel. McMackin v. Board of Police*, 46 Hun, 296.)

Election not vitiated if inspectors or clerks fail to take oath, though such failure might be punished by indictment. (*People v. Cook*, 8 N. Y. 84.)

Appointment of election officers.—The power to select election officers in the county of New York rests in the county committee of the party, whose action is to be authenticated by the chairman of its executive committee; and where the power is so exercised and authenticated, the court will not consider a claim that a recommendation of a committee of an assembly district to the county committee was disregarded, although the recommendations of committees of other assembly districts were adopted. (*Sheehan v. McMahon*, 44 App. Div. 63; 60 N. Y. Supp. 452.)

§ 13. ***Election officers in towns.**—Inspectors of election in towns shall be appointed by the town board in each year in which a town meeting is held for the election of town officers, and within thirty days thereafter. Such appointments shall be made from lists to be prepared, certified and filed in the manner hereinafter provided, by the two political parties entitled to representation on a board of election officers. The town caucus or primary held by each such political party for the purpose of nominating town officers shall prepare a list containing the names of at least two persons, qualified to serve as inspectors of election, for each election district in said town, which lists shall be certified by the presiding officer and a secretary of said caucus or primary, and filed with the town clerk in the same manner and at the same time as the party certificate of nomination filed by said party. From each of the two lists so filed, the town board shall appoint two persons who possess the qualifications prescribed by law for

* Election officers in office April 25, 1901, shall hold office and continue to serve until the expiration of their terms. See chap. 536, L. 1901.

election officers. If in any town more than one such list be submitted on behalf or in the name of the same political party, only that list can be accepted which is certified by the proper officer or officers of the faction of such party which was recognized as regular by the last preceding state convention of such party; or if no such convention was held during the year, by the proper officer or officers of the faction of such party, which, at the time of the filing of such list is recognized as regular by the state committee of such party. Such appointment shall be made in writing and filed with the town clerk who shall forthwith notify each person so appointed of his appointment to said office, in the same manner that he is now by law required to give notice to a person of his election to a town office when his name does not appear upon the poll list at the town meeting at which he was elected to said office. From the additional names, if any, contained on the lists so filed, of persons qualified to serve as such, the town board shall appoint inspectors of election in case of the resignation, declination or other incapacity of persons appointed to such office. If such lists contain no additional names of such persons, the town board shall fill vacancies caused by such resignation, declination or other incapacity by appointing persons known, or proved to the satisfaction of a majority of the members of said board to be members of the same political party in which such vacancy occurred. All appointments to fill vacancies shall be made in writing and filed with the town clerk, and notices thereof given by him as hereinbefore provided in the case of an original appointment. At the first meeting in each year of the board of inspectors in every district in a town, one poll clerk and one ballot clerk shall be appointed by the two inspectors of election representing one of the political parties entitled to representation on such board, and one poll clerk and one ballot clerk shall be appointed by the two inspectors representing the other political party. Such appointments shall be in writing, signed by the inspectors making the appointments respectively, and shall be filed by them with the town clerk of the town in which such election district is situated, and a copy thereof with the post-office address of each person so appointed shall be mailed to the clerk of the county. The poll clerks and ballot clerks so appointed shall hold their office during the term of office of the inspectors appointing them, except as hereafter provided. The persons so appointed as poll clerks and ballot clerks shall be voters in the district in which they are appointed to serve, and shall possess the qualifications required of such officers by section eleven of this act. If at any time of any election at which poll clerks and ballot clerks are required to be present at the polling place in any election district, the office of a poll clerk or of a ballot clerk of such district shall be vacant, or a poll clerk or a ballot clerk shall be absent, the inspectors of election in such district shall forthwith appoint a person to fill such vacancy. Such person so appointed shall, before he acts as such poll clerk or ballot clerk, take the

constitutional and statutory oaths of office. (*Thus amended by chap. 536, L. 1901.*)

(Forms for appointments, oaths, etc., under this section, see "Forms" at end of this article.)

Inspector a candidate for office vacates his office of inspector. (34 Barb. 620.)

Term of office of inspectors, two years. (*See* § 13, *Town Law, post.*)

Oath of office of inspectors to be taken within ten days after notice of election or appointment and within eight days filed in the office of town clerk. (*See* § 51, *Town Law, post.*) Statutory oaths to be taken before opening of polls on election day. (§ 104, *art. 2, Election Law.*)

Vacancies in office of inspectors.—The town board may fill vacancies by appointment in writing and cause same to be filed in office of town clerk, who shall forthwith give notice to person appointed. (*See* § 65, *Town Law, post.*)

Compensation of election officers.—If a different rate is not otherwise established as herein provided, each inspector of election, ballot clerk and poll clerk is entitled to two dollars per day; but the board of supervisors may establish in their county a higher rate, not exceeding six dollars per day. (*See* § 178, *Town Law, post.*)

Although town election officers were employed from five A. M. until nearly midnight at a general election. *Held*, that they were only entitled to one day's pay under section 178 of the Town Law and that the statute fixing the number of hours which shall constitute a day's work by its terms does not apply to such offices. (*People ex rel. Kleet v. Town Bd. West Turin*; 27 Misc. 470.)

Account of inspectors in towns, how made out.—"No account shall be audited by any board of town auditors or supervisors * * * for any services or disbursements unless such account shall be made out in items and accompanied with an affidavit attached thereto, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct and that the disbursements and services charged therein have been in fact made or rendered or are necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied; and the chairman of the board * * * may administer any oath required under this section." (*Extract from* § 167, *Town Law, chap. 569, Laws 1890.*)

(For Form for Bill for Compensation, see "Forms" at end of this article.)

§ 14. Organization of boards of inspectors; supplying vacancies and absences.—Before otherwise entering upon their duties, the inspectors of each district shall meet and appoint one of their number chairman; or, if a majority shall not agree upon such appointment, they shall draw lots for that position. If at the time of any meeting of the inspectors there shall be a vacancy in the office of any inspector, or if any inspectors shall be absent from any such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent inspector, to act until such absent inspector, or his successor duly appointed under the provisions of section twelve, shall appear, and such person, if so serving temporarily, shall serve without pay. If, at any such time, the offices of all inspectors, are vacant, or no inspector, shall appear within one hour after the time fixed by law for the opening of such meeting, the qualified voters of the district present, not less than ten, may designate four qualified electors of the district belonging to the political parties as specified in section eleven, to fill such va-

cancies, or to act in the place of such inspectors respectively, until the absent inspectors respectively appear. If at any time there shall be a vacancy in the office of any poll clerk or ballot clerk, or if any poll clerk or ballot clerk shall be absent from such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent poll clerk or ballot clerk to fill such vacancy. Every person so appointed or designated to act as an inspector, poll clerk or ballot clerk shall take the constitutional and statutory oaths as prescribed by the election law.

Similar provisions as to supplying vacancy in office of poll or ballot clerk. (*Election Law*, § 13.)

If no clerks can be procured election is not to fail, but inspectors must perform the clerks' duties. (*People v. Cook*, 8 N. Y. 88.)

Civil service rules and regulations do not apply to election officers. (*See* § 8, *chap.* 370, *Laws* 1899.)

§ 15. Preservation of order by inspectors.—All meetings of the board of inspectors shall be public. Such board and each individual member thereof shall have full authority to preserve peace and good order at such meetings, and around the polls of elections, and to keep the access thereto unobstructed, and to enforce obedience to their lawful commands. The said board may appoint one or more electors to communicate their orders and directions, and to assist in the performance of their duties in this section enjoined. If any person shall refuse to obey the lawful commands of the inspectors, or by disorderly conduct in their presence or hearing shall interrupt or disturb their proceedings, they shall make an order directing the sheriff or any constable of the county, or any peace or police officer to take the person so offending into custody and retain him until the registration of electors, or the canvass of the votes shall be completed, but such order shall not prohibit the person taken into custody from voting. Such order shall be executed by any sheriff, constable, peace or police officer, to whom the same shall be delivered. But if none shall be present, then by any other person deputed by such board in writing. The said board or any member thereof, may order the arrest of any person other than an election officer violating or attempting to violate, any of the provisions of this election law.

(For Forms for Precept and Deputation see "Forms" at end of article.)

Disobedience of orders of inspectors.—"Willfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor." (*Subd.* 17, § 41k, *Penal Code*, as amended by *chap.* 714, *Laws* 1894.)

Arrest without a warrant may be made by either a peace officer or a private citizen when a crime is committed in his presence. (*Code Crim. Pro.* §§ 177, 183.)

Inspectors have a right to keep order during canvass, but under pretense of same they have no right to turn out a peaceful and quiet citizen whose presence does not interfere with the discharge of their duties. (*Horton v. Whistler*, 4 N. Y. St. Rev. 810.)

§ 16. **Ballot boxes.**—There shall be but one ballot box at each polling place for receiving all ballots cast for candidates for office, which box shall be conspicuously marked "Box for general ballots." There also shall be a ballot box for the reception of ballots found to be defective in printing, or mutilated before delivery to electors, and for ballots spoiled and returned by electors, which box shall be conspicuously marked "Box for spoiled and mutilated ballots." There shall also be a box for detached ballot stubs, which box shall be conspicuously marked, "Box for detached ballot stubs." If proposed constitutional amendments, or other propositions or questions may lawfully be voted upon thereat, there shall be a separate ballot box at each polling place for the reception of ballots upon such amendments or propositions, or questions, which box shall be marked conspicuously, "Box for questions submitted." In towns in which town meetings are held on election day, an additional ballot box shall be provided, to be marked "box for town propositions," in which shall be deposited ballots cast on town propositions and questions. Each box used for the reception of voted ballots shall be provided with a sufficient lock and key, and with an opening in the top thereof large enough, and not larger than may be necessary to allow a single folded ballot to be easily passed through such opening into the box. Each box shall be large enough to properly receive and hold all ballots which may lawfully be deposited therein at any election. (*Thus amended by chap. 381, L. 1900, and chap. 405, L. 1902.*)

The question whether or not liquor shall be sold in a certain town shall be voted on at town meeting by using a separate ballot and the ballot box designed for constitutional amendments. (*Election Law*, § 82; *Laws of 1896, chap. 112, § 16.*)

§ 17. **Voting booths and guard rails.**—There shall be in each polling place during each election a sufficient number of voting

booths, not less than one for every seventy-five registered electors in the district. Each such booth shall be at least three feet square, shall have four sides enclosed, each at least six feet high, and the one in front shall open and shut as a door swinging outward, and shall extend within two feet of the floor. Each such booth shall contain a shelf which shall be at least one foot wide, extending across one side of the booth at a convenient height for writing, and shall be furnished with such supplies and conveniences including pencils having black lead only, as will enable the electors to conveniently prepare their ballots for voting. Each booth shall be kept clearly lighted while the polls are open by artificial lights if necessary. A guard rail shall be placed at each polling place at least six feet from the ballot boxes and the booths, and no ballot box or booth shall be placed within six feet of such rail. Each guard rail shall be provided with a place for entrance and exit. The arrangement of the polling place shall be such that the booths can only be reached by passing within the guard rail, and that the booths, ballot boxes, election officers and every part of the polling place except the inside of the booths, shall be in plain view of the election officers and the persons just outside the guard rail. Such booths shall be so arranged that there shall be no access to intending voters or to the booths through any door, window, or opening except by the door in front of said booth.

Supplies for voting booths to be furnished by officers designated in Election law. (*See § 86, Election Law.*)

Removal, mutilation or destruction of election booths, supplies, etc., a misdemeanor. (*See § 41e, Penal Code, post.*)

§ 18. Payment of election expenses.—The expense of providing polling places, voting booths, supplies therefor, guard rails and other furniture of the polling place, and distance markers, and the compensation of the election officers in each election district, shall be a charge upon the town or city in which such election district is situated except that such expenses incurred for the purpose of conducting a village election, not held at the same time as a general election, shall be a charge upon the village. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used at a town meeting, city or village elections not held at the same time as a general

election, and of printing the list of nominations therefor shall be a charge upon the town, city or village in which the election is held. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers to be used in any county, except such counties or portions thereof as are included within the city of New York, at any other election, if no town meeting, city or village election be held at the same time therewith, and of printing the lists of nominations therefor, shall be a charge upon such county. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets, return sheets for inspectors and ballot clerks, and distance markers, to be used in any such county at any other election, and of printing the lists of nominations therefor, if the town meeting, city or village election be held in such county at the same time therewith, shall be apportioned by the county clerk between such town, city or village and such county, in the proportion of the number of candidates for town, city or village officers on such ballots respectively, to the whole number of candidates thereon, and the amount of such expense so apportioned to each such municipality shall be a charge thereon. Whenever voting machines are used in an election by any city, town or village, only such expenses as are caused by the use of such machines, and such as are necessary for the proper conduct of the elections as required by the election law shall be charged to such city, town or village. All expenses relating to or connected with elections lawfully incurred by the board of elections of the city of New York shall be a charge on such city, and after being audited by the proper officer, shall be paid by the comptroller of said city upon the certificate of such board. The county clerk of each county, not salaried, shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the board of supervisors of the county, or the board acting as such board of supervisors. The town clerk of each town shall be paid by such town a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the other members of the town board of the town. Ballot clerks shall receive the same compensation for their attendance at an election, as inspectors of election for the election, and be paid in like

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manner. Poll clerks shall receive the same compensation for their attendance at an election and canvass of the votes as inspectors of election and shall be paid in like manner. An inspector of election, lawfully required to file papers in the county clerk's office, shall, unless he resides in the county, if within the city of New York, or in any other city or town in which such office is situated, be entitled to receive as compensation therefor five dollars, and also four cents a mile for every mile actually and necessarily traveled between his residence and such county clerk's office in going to and returning from such office. In cities of the first class, having a population of two million or more inhabitants the persons appointed and serving as inspectors of election shall receive seven dollars and fifty cents for the hours fixed by law for each day of registration, and of revision of registration for a special election, and seven dollars for the hours fixed by law for the election, and five dollars for the count and return of the votes. The poll clerks in such city shall each receive the same compensation as inspectors of the election and for the count of the votes, and the ballot clerks shall receive eight dollars each. Such officers shall be paid by the comptrollers of the respective cities upon the certificate of the board or officer appointing them. Election officers required to meet at a different time from the regular count of the votes cast at a general election for the purpose of counting and returning the votes of electors absent from their election districts in time of war in the actual military or naval service of this state or of the United States shall be paid five dollars each. (*Thus amended by chap. 95, L. 1901.*)

Compensation of election officers in towns.—2. If a different rate is not otherwise established as herein provided, each inspector of election, ballot clerk and poll clerk is entitled to two dollars per day; but the board of supervisors may establish in their county a higher rate, not exceeding six dollars per day. (*See § 178, Town Law, post.*)

§ 19. Delivery of election laws to clerks, boards and election officers.—The secretary of state shall at least sixty days before each general election held after this act takes effect cause to be prepared a compilation of the election law with explanatory notes and instructions, properly indexed, and the secretary of state shall procure the same to be printed by the legislative printer, and transmit to the county clerk of each county except New York,

Kings, Richmond and Queens counties, and to the board of elections of the city of New York, located in the borough of Manhattan and to the branch office of the board of elections in each of the other boroughs of the city of New York a sufficient number of copies thereof, to furnish one such copy to the county clerk and to said board and to each of said branch offices of the board of elections and one to each town, village and city clerk and to each election officer in such county and said boroughs together with such number of extra copies as may in his judgment be necessary to replace lost or mutilated copies before delivery thereof to election officers. The county clerk of each county, except those counties the whole of which are included within the city of New York, shall forthwith transmit one of such copies to each of such officers in such county, and the said board of elections shall cause to be delivered one of such copies to each of such officers in the city of New York. Each copy so received by each such officer shall belong to the office of the person receiving it. Every incumbent of the office shall preserve such copy during his term of office and upon the expiration of his term or removal from office deliver it to his successor. The secretary of state shall also transmit to the state superintendent of elections for the metropolitan elections district a sufficient number of such copies to furnish one of such copies to the superintendent and to each deputy. (*Thus amended by chap. 95, L. 1901.*)

FORMS FOR ELECTION LAW, ARTICLE 1.

1. Appointment of inspector to fill vacancy at meeting of inspectors.
 2. Designation by electors to fill vacancies in boards of inspectors.
 3. Appointment of poll clerks and ballot clerks in towns.
 4. Appointment of poll clerks and ballot clerks to fill vacancies at meeting of inspectors.
 5. Oath for elective election officers.
 6. Oath for appointive election officers.
 7. Precept in case of refusal to obey lawful commands of inspectors.
 8. Precept in case of disorderly conduct in presence or hearing of inspectors.
 9. Bill for compensation in towns.
 10. Chairman's certificate of service in cities.
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FORM No. 1.

(See § 14, Election Law.)

Appointment of inspector to fill vacancies at meeting of inspectors.

There being a vacancy in the office of inspector of election (or being absent from the meeting of the board of inspectors this day) in election district No. of the (ward, city or town) of , I (or we), pursuant to the election law, do hereby appoint , a duly qualified elector of the said election district, and a member of the same political party as the absent inspector, to act as a member of the board of election inspectors in place of until he or his duly appointed successor shall appear.

Dated this day of , 19 .

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(To be filed with returns.)

Inspectors of Election.

FORM No. 2.

(See § 14, Election Law.)

Designation by electors to fill vacancies in boards of election inspectors.

The offices of all the inspectors of the election district of the (ward, city or town) of , being vacant (or, all the inspectors of election of the election district of the (ward, city or town) of .

not appearing within one hour after the time fixed by law for the opening of the meeting of board of inspectors to be held this day), we, the undersigned, duly qualified electors of said district, hereby appoint to act in the place of , and to act in the place of , until such absent inspectors respectively appear, the said persons so appointed being respectively members of the same political party as such absent inspectors.

Dated this day of , 19 .

(To be signed by not less than ten duly qualified electors and filed with returns.)

FORM No. 3.

(See § 13, Election Law.)

Appointment of poll clerks and ballot clerks in towns.

We, the undersigned (elected or appointed as the case may be), inspectors of the election district of the town of , do hereby appoint to the office of poll clerk in and for said district, and to the office of ballot clerk, pursuant to the provisions of section thirteen of the election law.

Dated this day of , 19 .

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.....,

Inspectors of Election.

(To be filed with the town clerk, and a copy thereof with the post office address of each person mailed to the county clerk.)

FORM No. 4.

(See § 14, Election Law.)

Appointment of poll or ballot clerk to fill vacancy at meetings of inspectors.

There being a vacancy in the office of poll clerk (or ballot clerk) (or , a duly appointed poll clerk (or ballot clerk), being absent from the meeting of inspectors this day) in election district No. of the (ward, city or town) of , I (or we), pursuant to the election law, do hereby appoint , a qualified elector of said district and a member of the same political party as the absent poll clerk (or ballot clerk), to fill such vacancy.

Dated this day of , 19 .

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(To be filed with the returns.)

Inspectors of Election.

FORM No. 5.**Oath for elective election officers.**

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election, according to the best of my ability. And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote.

(Signed) _____

Subscribed and sworn before me,
this day of , 19 .

In addition to the above oath, elective officers must take the statutory oath provided for in subdivision 2, section 24, of the Election Law before the opening of polls on election day.

FORM No. 6.**Constitutional and statutory oath for appointive election officers.**

I do solemnly swear I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election according to the best of my ability.

I do further solemnly swear (or affirm) that I will not in any manner request, or seek to persuade, or induce any elector to vote any particular ticket, or for any particular candidate, and that I will not keep or make any memoranda or entry of anything occurring within the booth, and that I will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector, or which ticket he has voted, or anything occurring within the voting booth, except I may be called upon to testify in a judicial proceeding for a violation of the election law.

(Signature of Appointee) _____

Sworn and subscribed to this day
of September, 1896, before me.

FORM No. 7.

(See § 15, Election Law.)

Precept in case of refusal to obey the lawful commands of the inspector.

(Blank precepts should be provided beforehand and be in possession of the board ready to be filled up for use.)

The people of the state of New York to the sheriff of the (city and) county of _____, or any constable, peace or police officer of said (city or) county:

WHEREAS, at the present general (or special) election, held in and for election district No. _____, in the town of _____ (or in the _____ ward of the city of _____), in said county, _____ did willfully and intentionally obstruct the passageway to the polls of the said election, thereby hindering and preventing free access to the said poll, in open and known violation of the command of us, the undersigned, inspectors of this election, previously and publicly given in his hearing. You are, therefore, hereby ordered forthwith to arrest the said _____, and him safely keep and detain in custody until (the registration of electors or the canvass of the votes given in this election district shall be completed.)

Given under our hands and seals this _____ day of _____, 18 ____.

Deputation to be written on back of precept in case no sheriff or constable is present.

No sheriff or constable being present we hereby depute _____ to execute the within process.

FORM NO. 8.

(See § 15, Election Law.)

Precept in case of disorderly conduct in presence or hearing of inspectors.

The people of the state of New York to the sheriff of the (city and) county of _____, or to any constable, peace or police officer of said county:

WHEREAS, at the present general (or special) election, held in and for election district No. _____ in the town of _____ (or in the _____ ward of the city of _____), in said (city and) county, _____, in the presence (or in the hearing) of us, the undersigned, inspectors of the said election, did by disorderly conduct, to wit, by (here describe the misconduct particu-

OF 1896.

or by violent stamping, or by as-
suming to be commencing a riot and affray with divers
persons, or by any means may be interrupt and disturb the proceedings of us.
in the presence of the election. You are, therefore, hereby
authorized to arrest the said , and him safely detain in
custody until the registration of electors or the canvass of the votes given
in this election district shall be completed).

Given under our hands and seals, this day of , 18 .

FORM No. 9.

(See § 167, Town Law.)

Bill for compensation in towns.

ALBANY, November , 18 .

TOWN OF GUILDERLAND,

To JOHN SMITH, INSPECTOR OF ELECTION, *Dr.*

1893.

Oct. 22.	To attendance at meeting for registry	\$4 00
Nov. 9.	To attendance at election	4 00

1893.

Nov. 9.	To attendance at election	4 00
10.	To filing election returns, etc., in county clerk's office * ...	5 00
10.	To mileage in filing election returns, etc., in county clerk's office, 20 miles at 4c. *	80

\$17 80

Received payment,

JOHN SMITH.

STATE OF NEW YORK,

ALBANY COUNTY,

ss.:

John Smith, inspector of election for the first election district of the town of Guilderland, in said county, being duly sworn, deposes and says, that the items contained in the foregoing account are correct, and that the services charged therein have been in fact rendered and that no part thereof has been paid or satisfied.

JOHN SMITH,

Inspector of Election.

Sworn to before me this day of 18 .

(The above oath may be taken before the chairman of the town board or any other person authorized to administer oaths.)

* In county seat towns, inspectors cannot charge for this service, and only the inspector designated to file returns should include this item in his bill.

FORM No. 10.

Chairman's certificate of service in cities.

(See § 12, Election Law.)

....., N. Y., November 3d, 1896.
 Election district..... [Assembly district Ward, Town.]
 To the [Mayor of....., or Appointing Board]:

I hereby certify, pursuant to the provisions of section 12 of the election law, that the following named persons served as election officers, in the above-named election district, for and at the general election, November 3d, 1896, on the dates set opposite their names and not canceled:

Signed _____
 Chairman of Board of Inspectors.

		<i>Inspectors.</i>
Names.	Residences.	Days of service.
.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
.....	Oct. 9th, 10th, 16th, 17th, Nov. 3d.
		<i>Poll-Clerks.</i>
.....	November 3d.
.....	November 3d.
.....	November 3d.
		<i>Ballot Clerks.</i>
.....	November 3d.
.....	November 3d.
.....	November 3d.

Use of Registration and Polling Place.

I hereby further certify that the place designated in the above-named district for registration and election purposes at No..... was used for such purposes on the following dates which are not erased: October 9th, 16th, 17th, November 3d, 1896.

Signed _____
 Chairman of Board of Inspectors.

NOTE.—The chairman of the board of inspectors must fill out this certificate at the close of the canvass and return it to the mayor or board appointing such officers within twenty-four hours thereafter. In the case of any election officer who has not served on any of the dates set opposite his name the chairman should draw a line in ink through such date, thus canceling it. The names of persons who may have served temporarily as election officers, but who are not entitled to pay for such services, *must not* appear upon this certificate.

Any chairman who shall willfully make a false certificate is guilty of a misdemeanor. (Pt. § 12, Election Law.)

ARTICLE II.

Registration of Electors.

SECTION 30. Meetings of registration.

31. Adding and erasing names on register.
32. Forms for registration.
33. Method of registration.
34. General provisions.
35. Certification and custody of register.
36. Delivery of blank books for registration, certificates and instructions.

§ 30. **Meetings for registration.**—Before every general election, the board of inspectors for each election district in every city, and in villages having five thousand inhabitants or more, shall hold four meetings for the enrollment of the voters thereof, at the place designated therefor, on the fourth Friday, fourth Saturday and the third Friday and third Saturday before such election, to be known respectively as the first, second, third and fourth meetings for registration. Each meeting, if in cities of the first class, shall begin at seven o'clock, if elsewhere, at eight o'clock in the forenoon, and continue, if in cities of the first class, until ten o'clock, if elsewhere, until nine o'clock in the evening. In all election districts other than in cities or villages having five thousand inhabitants or more the board of inspectors of election for each such election district shall hold two meetings for the registration of electors thereof at the places designated therefor before each general election, namely, on the fourth and third Saturday before the election, to be known respectively as the first and second meetings for registration, which meetings shall begin at nine o'clock in the forenoon and continue until nine o'clock in the evening. The board of inspectors of election shall keep a correct list of the names of the electors, or a copy of the same, in a county judge as provided in section thirty-one of the election law, and on the second Saturday before each general election shall deliver to the clerk of the county judge a copy of the same, and shall also deliver to the clerk of the county judge a copy of the names of any person as charged to have been removed from the list of electors, and shall also deliver to the clerk of the county judge a copy of the names of any person as charged to have been added to the list of electors, and shall also deliver to the clerk of the county judge a copy of the names of any person as charged to have been removed from the list of electors, and shall also deliver to the clerk of the county judge a copy of the names of any person as charged to have been added to the list of electors.

such order, and the court, justice or judge issuing the same. If any special or other election other than a general election shall be ordered or held in any city or village, the inspectors of election of the various election districts in which such special or other election is to be held, shall meet in their respective districts at the place designated therefor, on the second Saturday preceding such election, from eight o'clock in the forenoon to ten o'clock in the evening for the purpose of revising and correcting the register of electors as hereinafter provided. No inspector shall on any day for registration be absent during the hours fixed for enrolling the names of electors. Each political party or independent body duly filing or entitled to file certificates of nomination of candidates for offices to be filled at any such election, may, by a writing signed by the duly authorized county, city, town or village committee of such political party or independent body, or by the chairman or secretary thereof charged with that duty and delivered to one of the inspectors of election, appoint not more than two watchers to attend any meeting or meetings of inspectors for an election district in cities and villages having five thousand inhabitants or more held for the enrollment of the voters thereof. Such watchers may be present at such polling place, and within the guard rail, from at least fifteen minutes before the commencement of the said meeting until after the completion of the duties of the board of inspectors for that day of registration. (*Thus amended by chap. 300, L. 1901.*)

Registration to be completed at least ten days before each election. (*See § 4, art. 2, Const., post.*)

No part of registration days a holiday.—"No part of a day fixed for the registration of electors shall be deemed a holiday so as to affect any meeting or proceeding of the board of inspectors for registration." (*Subdivision 5, § 34, Election Law.*)

No registration of electors required for town or village elections. (*See § 33, Election Law, last lines; § 4, art 2, Const., post.*)

The statutory provision as to closing the meetings for registration at a certain hour refers to the closing of the place of registration, and inspectors should not refuse to register those who are at present within the place of registration at the time for closing. (*People ex rel. Cass v. Hosmer, 2 How. [N. S.] 472*)

Misconduct of registry officers.—Punishable by imprisonment for not less than two nor more than ten years. (*See § 41c, Penal Code, post.*)

§ 31. Adding and erasing names on register.—If the board of inspectors at any meeting for the registration of electors shall have neglected or refused to place upon the register of electors the name of any person who is entitled to have his name placed thereon, application may be made to the supreme court, or any justice thereof in the judicial district in which such election district is located, or of a county adjoining such judicial district, or to a county judge of the county in which such election district is located, on a day at least two days prior to the second Saturday before any election, for an order to place such name upon the register of electors; and such court, justice or judge

may, upon sufficient evidence, and upon such notice of not less than twenty-four hours to the board of inspectors, and such other person interested of such application as the court, justice or judge may require, order such inspectors to convene as a board of registration on the second Saturday before such election, and to add the name of such person to such register of electors, and such register shall be corrected accordingly; but no court, justice or judge shall order the name of any person to be added to the register of electors unless it shall have been omitted therefrom through the fault, error or negligence of the election officers. In case the name of any person who will not be qualified to vote in such election district, at the election for which such registration is made, shall appear upon such register, application may be made in like manner by any elector of the town or city in which such election district is located to any court, justice or judge hereinbefore designated, for an order striking such name from the register, and such court, justice or judge may, upon sufficient evidence, and upon such notice of not less than twenty-four hours to the person interested of such application as the court, justice or judge may require, served either personally or by depositing the same in the post-office addressed to said person by his name, and at the address which appears in the register certified by the inspectors of election, proceed to convene the board of inspectors as provided herein for adding a name, and may order such board to strike such name from such register of electors, and such register shall be corrected accordingly.

A judge at chambers may order a name stricken from the registry list, but only in cases where there is absolutely no doubt as to the fact that the voter is not and cannot become qualified. If there is dispute as to the facts the voter should be left to swear in his vote at his peril. (*Matter of Goodman*, 146 N. Y. 284.)

A provision in an order to show cause why the name of an alleged voter should not be stricken from the registry list of voters, that notice thereof should be given to other persons is merely surplusage. (*Matter of Griffith*, N. Y. State Reporter, 542.)

Matter of Hamilton (80 Hun. 511), and *Matter of Ward* (48 N. Y. St. Rep. 613), holding that a judge can compel a name to be added to or stricken from the registry list only when the inspectors have failed in their ministerial duty in placing the name upon the list when the applicant has taken the required oaths, etc., were practically overruled by *Matter of Goodman* (146 N. Y. 284).

Elector registering in wrong district afforded no ground for relief under this section. 53 N. Y. Supp. 1071.)

§ 32. **When personal registration is required.**—Subdivision one. The board of inspectors of each election district in the state shall, at their meetings for registration for the general election in each year, make a quadruplicate register—one copy by each inspector—in the forms hereinafter prescribed in this subdivision and in subdivision two of this section, of those persons, and none other, who are or will be qualified to vote in such district at such election, which register, when finally completed, shall be the register of electors of the district for such election. Such register shall also be used at all other elections held in such district during the year succeeding the election for which it is made, except for town meetings and village elections for which no registration is required. In all election districts in which personal registration of all electors is required, the register shall be arranged in nineteen columns and the leaves thereof shall be indexed from A to Z. In the first column of such register there shall be entered at the time of the completion of the registration on the last day for registration, a number opposite the name of each number so enrolled, beginning with “1” opposite the first name entered on the page indexed A and continuing in numerical order to and including the last name entered upon the last page of such register. On each day of registration there shall be entered in the second column thereof the surname of such persons in the alphabetical order of the first letter thereof, on the page bearing the index letter of such surname and in the third column the christian name or names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence or a brief description of the locality thereof. In the sixth column shall be entered the number of the floor or room occupied by the elector at the residence given by him, and in the seventh column shall be entered his age, in the eighth, ninth and tenth columns shall be entered his length of residence by years, months and days as the case may be in the state, county and election district, respectively; and in the eleventh column shall be entered the country of his nativity, which shall mean the country, state or province of the elector's birth, irrespective of his former political allegiance. In the twelfth column, if he be a naturalized citizen, shall be entered the date of the naturalization certificate under which he claims citizenship and in the thirteenth column shall be entered the

designation of the court issuing such naturalization certificate. In the fourteenth, fifteenth and sixteenth columns shall be entered respectively the name of the state, the city or town and the number and name of the street or avenue of the residence of such person from which he last registered or voted. In the seventeenth column shall be entered the date of the registration of the elector. The eighteenth column shall be reserved for entering the consecutive number on the stub of the official ballot voted by the elector on election day. In the nineteenth column shall be entered, opposite the name of each elector, under the heading "remarks," the facts regarding challenges, oaths and other facts affecting such elector required to be recorded. (*Thus amended by chap. 113, L. 1901.*)

Subdivision 2. In all election districts in which personal registration of all electors is not required the register shall be arranged in eight columns. In the first column of such register there shall be entered at the time of the completion of such registration on the last day thereof, a number opposite the name of each person so enrolled, commencing with "1" and continuing in numerical order. On each day of registration there shall be entered in the second column thereof surnames of such persons in the alphabetical order of the first letter thereof, and in the third column the christian names of such persons respectively. In the fourth column shall be entered the residence number or other designation, and in the fifth column the name of the street or avenue of such residence, and a brief description of the locality thereof. In the sixth column shall be entered the date on which the elector was registered. The seventh column shall be reserved for entering the consecutive number on the stub of the official ballot voted by the elector on election day. In the eighth column shall be entered opposite the name of each elector, under the heading of "remarks," the facts regarding challenges, oaths and other facts affecting such elector required to be recorded. (*Thus amended by chap. 630, L. 1899.*)

Subdivision 3. In cities of the first and second class, the board of inspectors of each election district shall, immediately after the close of the last day of registration, make and complete one list of all persons enrolled in their respective districts, in the numerical order of the street numbers thereof, which list shall

be signed and certified by the board of inspectors. Such list shall be delivered by the chairman of the board of inspectors to the police captain of the precinct in which the election district is located, or an officer thereof, who shall forthwith deliver the same if in the city of New York, to the board of elections, and if in any other of the cities of the first class to the city clerk or in cities of the second class, to the county clerk of the county in which such city is located. The board of elections of the city of New York and the city clerk of other cities of the first class and the county clerk in the said cities of the second class shall, as soon as possible after the delivery of such lists, and not less than six days prior to the day of election, print in pamphlet form for each assembly district or ward within such respective cities not less than fifty times as many copies of said list as there are election districts in such assembly district or ward, so that each assembly district or ward pamphlet shall contain the lists of the several election districts in such assembly district or ward. Upon the written application of the chairman of the executive committee of the county committee of any political party entitled to a separate column upon the official ballot to be voted in such city at the election for which the registration is made, the said board and said city clerk and said county clerk shall respectively deliver to such chairman five copies of each assembly district or ward pamphlets for each election district within such assembly district or ward in such county. Two pamphlets containing the lists of the registered persons in the election districts within his precinct shall be furnished to each police captain in such cities, and it shall be the duty of such police captains to forthwith cause an investigation of each name registered to be made and to report to his commanding officer and to the board of elections any case of false registration found in his precinct. The remaining pamphlets so printed shall be distributed in the discretion of the said board, and said city clerk and said county clerk, who shall have respectively the power to charge for each pamphlet a sum not exceeding ten cents a copy and any moneys resulting from the sale thereof shall be paid to the comptroller of the city for the benefit of the treasury of such city. The board of elections shall contract for the printing of such lists of registered voters with whomsoever it may seem to said board to be most advantageous to so contract, but such contract shall only be

awarded after proper public notice and to the lowest bidder. Such lists shall be made and printed as near as may be in the following form, to wit:

GRAND STREET.

Residence number or
other designation.

14.

15.

Name of voter.

Smith, John M.

Jones, Charles M.

(Thus amended by chap. 95, L. 1901.)

Inspectors have no right to refuse enrollment.—If an applicant for registration makes the proper statement and takes the required oath or affirmation, his name must be entered on the list of voters, and the inspectors have no discretion or right to refuse it. The law makes it their duty to do so, yet if a person who has been refused and applies to the court for a mandamus against the inspectors and it appears that he had no right to register and was not in fact a qualified voter, would the court compel the inspectors to register him and then place him in a position that he may cast a legal vote? (*Sherwood v. Bd. Canvassers*, 129 N. Y. 360.)

Board of registration act only ministerially in receiving an registering the names of voters, and must therefore register all who conform in their application for registration to the formal requirement of the law, but must refuse registration to any who fail in such conformation. (*Matter of Hamilton*, 80 Hun, 511; *People ex rel. Stapleton v. Bell*, 119 N. Y. 175.)

Entries to be made in registers regarding challenges, oaths, etc.—

1. The words "to be challenged" shall be placed opposite the names of persons registered if any elector of the district shall make oath that he has reason to believe that any person on the register of electors will not be a qualified voter at the next election. (*See* § 34, *subd. 7, Election Law*.)

2. The fact that the statement filed with inspectors by persons claiming to be persons mentioned and referred to in subdivision two of section thirty-four of the election laws is attached to register shall be noted in the register opposite the name of the person so enrolled. (*See* § 34, *subd. 1, Election Law*.)

3. The inspectors are required to make a note upon the register of each instance in which an oath of illiteracy or physical disability is administered, and of the cause or reason assigned. (*See* § 34, *subd. 3, Election Law*.)

4. Inspectors are to make a note upon the registers, opposite the names of persons enrolled or stricken off therefrom by order of court, justice or judge, of the date of such order, and the court, justice or judge issuing it. (*See* § 30, *Election Law*.)

Registers, certificates, instructions, etc., to be furnished each election district by the secretary of state through the county clerk. (*Election Law*, § 36, *subd. 1*.)

Mutilation, destruction or loss of registry list a misdemeanor. (*See § 41b, Penal Code, post.*)

Failure of housedwellers to answer inquiries a misdemeanor. (*See § 41d, Penal Code, post.*)

Alteration, mutilation, removal, etc., of public copy.—"Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise provided by law." (*Part subd. 2 § 35, Election Law.*)

Lodging-house keepers in cities of first class to keep register.—"The proprietor, lessee or keeper of a licensed lodging-house in a city of the first class, shall between September first and November fifteenth, of each year, keep a daily register of lodgers within such lodging-houses." (*§ 110, chap. 327, L. 1900.*)

Returns of lodgers to board of health.—"The proprietor, lessee or keeper of a lodging-house shall, during the period, between September first and November fifteenth, make sworn fortnightly returns to the board of health of such city, according to the general regulations and upon blank forms to be prescribed by such board, containing the names of the lodgers therein during the twenty-four hours preceding the making of such return, and the facts as to each required to be stated in such register." (*§ 112, chap. 327, L. 1900.*)

Penalties for violations by lodging-house keepers.—"A violation of the preceding sections of this article by the proprietor, lessee or keeper of a licensed lodging-house in a city of the first class shall be a misdemeanor and punishable by a fine of ten dollars or by imprisonment for ten days for each and every offense and shall cause the license of such lodging-house to be revoked." (*§ 115, chap. 327, Law 1900.*)

Lodging house and hotel keepers in metropolitan elections district to keep register of guests and make report twenty-nine days before election. (*See § 9, chap. 676, L. 1898, as amended by chap. 684, L. 1900, post.*)

§ 33. Method of registration.—Subdivision 1. In cities and in villages having five thousand inhabitants or more, the names of such persons only as personally appear before the inspectors, and who are or who will be at the election for which the registration is made, qualified electors, shall be enrolled upon the register at a meeting for registration for a general election, except that whenever any election district in a village having five thousand inhabitants or more shall embrace within its boundaries, territory without the limits of such village, the inspectors shall, at their first meeting for registration for a general election place upon such register the names of all persons appearing on the register of the last preceding general election, who resided without the limits of

such village, but within the election district, who voted at such last preceding general election, except the names of such electors who are proven to the satisfaction of such inspectors to have ceased to be electors since such general election, or have moved within the limits of such village. They shall also place upon such register, at their first and subsequent meetings, the names of all other persons known or proven to their satisfaction, who are or will be entitled to vote at the election, who reside within such election district, but without the limits of such city or village.

Subdivision 2. At the first meeting for registration in all election districts where only two meetings for the enrollment of electors are held for any general election, as provided in section thirty of the election law, the inspectors shall at such first meeting, place upon the register the names of all persons who voted at the last preceding general election, as shown by the register or poll book of such election, except the names of such electors as are proven to the satisfaction of such inspectors to have ceased to be electors in such district since such general election, and also at said first meeting and at the second meeting, they shall place on the register the names of all persons known or proven to the satisfaction of the inspectors, who are, or will be, entitled to vote at the election for which such registration is made. (*Subdivision renumbered by chap. 630, L. 1899.*)

Subdivision 3. At the meeting of the board of inspectors in a city or village having five thousand inhabitants or more, for revising and correcting the register for any election other than a general election, the inspectors shall retain upon the register of their respective districts, the names of all persons qualified to vote at such election in such district, which appear upon the register of electors for the last preceding general election in such election district, except the names of such electors as are proven to the satisfaction of the inspectors to have ceased to be electors of such district since their names were placed upon such register, and shall, at such meeting, add only to such register the names of the persons qualified as electors, who shall personally appear before the board. If, however, such elector resides within such election district, but without the limits of such village, his name shall be placed upon such register, if it is shown to the satisfac-

tion of such board that he is entitled to vote therein. In cities of the first class any elector who was enrolled upon the register in an election district of such city at the last preceding general election, and who since that time shall have removed into another election district in the same city, and who is otherwise qualified to vote at such special election, shall, upon demand, receive from the board of inspectors of the district in which his name was enrolled for such last preceding general election, a certificate duly signed by the said board of the fact that his name was upon such register, and has been erased therefrom because of such removal, and his name shall thereupon be erased from such register. Upon presentation of such certificate by the elector to the board of inspectors of the election district in which he resides, his name shall be placed upon the register for such district. The inspectors must note upon the register opposite the name of such elector, the fact of such certificate of removal, specifying the election district from which he has removed. They shall carefully attach such certificate to the register. No elector shall cause his name to be placed upon the register of an election district for any election other than a general election, while his name shall appear upon the register of another district to be used at such election. Any person who shall violate this provision is guilty of a felony, and upon conviction shall be punished by imprisonment in a state prison for not less than two or more than five years. In all election districts other than in cities or in villages of five thousand inhabitants or more, the board of inspectors in preparing for an election other than a general election shall add to the register for the last preceding general election, the names of such electors as they know or are satisfied by proof will be, on the day of such election, entitled to vote thereat, and shall strike therefrom the name of all persons whom they know or are satisfied by proof have ceased to be qualified electors of such election district. No registration of electors shall be required for town or village elections. (*Subdivision renumbered by chap. 630, L. 1899.*)

Electors cannot be deprived of their votes because of the failure of the inspectors to comply with the requirements of the law in preparing the registers. (*People ex rel. Frost v. Wilson*, 62 N. Y. 186.)

Laws shall be made for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and certain villages, voters shall be registered upon personal application only; but voters not residing in such

cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters. (§ 4, art. 2, *Constitution, post.*)

§ 34. General provisions.—Subdivision 1.—**Qualification of elector.**—A person is a qualified elector in any election district for the purpose of having his name placed on the register if he is or will be, on the day of the election, qualified to vote at the election for which such registration is made. A qualified elector is a male citizen who is or will be on the day of election twenty-one years of age, who has been an inhabitant of the state for one year next preceding the election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote. If a naturalized citizen, he must, in addition to the foregoing provisions, have been naturalized at last ninety days prior to the day of election.

Subdivision 2. For the purpose of registering and voting no person shall be deemed to have gained or lost a residence, by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison. Any person claiming to belong to any class of persons mentioned and referred to in this subdivision shall file with the board of inspectors at the time of registration a written statement showing where he is actually domiciled, his business or occupation, his business address, and to which class he claims to belong. Such statement shall be attached to the register, and be open for public inspection, and the fact thereof shall be noted in the register opposite the name of the person so enrolled.

Qualifications, privileges and disabilities of voters.—For more full and detailed provisions relating to qualification, etc., of voters, see articles entitled, "Voters," "Citizenship" and "Naturalization" in the last pages of this book.

Inmate of hospital.—A person who remained in a hospital, supported at public expense, after his recovery, and who was engaged in the performance of certain services for which he received his board and clothing, was kept at the hospital and could not gain a residence there, and was therefore not entitled to vote from such hospital. (*People ex rel. McShane v. Hagan*, 48 App. Div. 203; 62 N. Y. Supp. 816.)

A student in a seminary, maintained for the education of Catholic priests, and into which no student enters unless he intends to become a priest, and renounces all other residences and homes other than the seminary, does not acquire a residence in the district in which such seminary is situated so as to entitle him to vote therein. (*Matter of Barry*, 164 N. Y. 18.)

A Porto Rican who is not naturalized is not entitled to register as a voter. (*People ex rel. Juarbe v. Inspectors*, 32 Misc. 584; 67 N. Y. Supp. 236.)

Subdivision 3. Illiterate and disabled electors.—If, at any meeting for the registration of electors, any person entitled to be registered and of whom personal registration is required, shall declare to the board of inspectors at the time he applies for registration, that he is unable to write by reason of illiteracy, or that he will be unable to prepare his ballot without assistance by reason of blindness, or of such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, loss of both hands, or such total inability of both hands that he cannot use either hand for ordinary purposes, or that he will be unable to enter the voting booth without assistance by reason of disease or crippled condition, the nature of which he must specify, it shall be the duty of the said board of inspectors to administer an oath to such person in the following language, namely: "You do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because," and after the word "because," continuing with a statement of the specific disease or crippled condition assigned by the person as the cause of his alleged disability, and the said inspectors and each of them shall make a note upon the register of each instance in which such oath is administered, and of the cause or reason so assigned.

Subdivision 4. If any elector after being enrolled, shall change his place of residence within the same election district, he may appear before the board of inspectors of such district on any day of registration, or on the day of election, and state under oath that he has so changed his residence, and the board of inspectors shall thereupon make the proper correction upon the register of such district.

Subdivision 5. No part of a day fixed for the registration of electors shall be deemed a holiday so as to affect any meeting or proceeding of the board of inspectors for registration.

Subdivision 6. Challenges to applicants for registration.—The secretary of state shall prepare and cause to be printed on good writing paper in book form wherever he deems it desirable for the best interests of the state, at least one hundred blank challenge affidavits for each election district in cities and at least fifty such blanks for each election district outside of cities and shall transmit to each county clerk, board or other officers to whom or which he is required to deliver the register of electors and at the same time

and in the same manner as such register of electors are transmitted a sufficient number of such books of blank challenge affidavits as shall provide one such book for each board of inspectors in each county, and such officers shall transmit the said books to the respective boards of inspectors in the same manner and at the same time as the register of electors. The secretary of state shall also furnish to such clerk or board an additional number of such books of challenge affidavits, and copies thereof as hereinafter provided, which in his judgment are necessary to replace lost or damaged books and to provide extra books to any election district in which the supply may be exhausted during the registration of electors. Such extra books shall be furnished by such clerk or board to the inspectors upon application by the inspectors or any citizen. Each challenge affidavit shall have a stub attached thereto and separated from such affidavit by a perforated line with a space on such stub for writing the name and the address of the challenged person, and both the stub and affidavit shall bear the same printed number and shall be numbered in consecutive order therein, beginning with number one. Such challenge affidavit shall be printed in the following form, to wit:

(Stub)

Name of applicant.....
Address

(Perforated line.)

CHALLENGE AFFIDAVIT.

State of New York }
County of..... } ss

Election District
Assembly District
or Ward.

City (or town) of.....
What is your true name?.....
Where do you actually reside?.....
Under what name are you known at that address?.....
Are you a householder?.....
What is the name of the householder with whom you reside?
.....
What is the character of the house in which you reside? (By character is meant whether it is a hotel, lodging house, tenement furnished room house, or private dwelling.).....
.....
How old are you?.....
Where were you born?.....

If naturalized, give name of court issuing and date of certificate?

What is your occupation?.....

What is the name of your present employer?.....

Where is his place of business?.....

What is the name of your last employer?.....

Where is or was the place of business?.....

When did you last register or vote?.....

From what address did you last register or vote from?.....

City or town.....Street and number.....

How long have you been an inhabitant of this state?.....

How long have you been a resident of this county?.....

How long have you been a resident of this election district?

.....

Are you married or single?.....

If married, where does your family reside?.....

If single, where do your parents reside?.....

How long do you contemplate residing in this election district?

.....

Give place or places by street and number, the city, town or village of your residence or residences during the past four months

Where did you actually reside immediately prior to taking up your present residence?.....

Have you been convicted of felony?.....

If so; have you been pardoned and restored to all the rights of citizenship?

When?.....By whom?

Have you made any bet or wager, or are you directly or indirectly interested in any bet or wager depending on the result of the next ensuing election?.....

Have you received or offered to receive, or do you expect to receive, any money or other valuable thing as a compensation or reward for registering or for giving your vote or refraining from voting at the next election?.....

Have you paid, offered or promised to pay, contributed, offered or promised to contribute, to another, to be paid or used, any money or other valuable thing, or made any promise, to influence the giving or withholding of any vote at the next ensuing election?

I, the undersigned, do hereby solemnly swear (or affirm) that the answers to the above questions were given by me and that they are true answers to such questions.

(Signature of applicant.).....

Description of applicant.

Height.....Color of hair.....
 Weight.....Hair on face.....
 Color.....Kind of nose.....
 Marks on face or hands.....
 Distinguishing marks

I, the undersigned, an inspector of election of the above designated election district, do hereby certify that the within named person did on this day, personally appear before the board of inspectors of this election district and did make application to have his name enrolled upon the register of electors of this said election district; that he was challenged and was sworn by me and did make the answers set opposite the printed questions upon this affidavit and signed the same in my presence.

Dated this.....day of October, 190..

Name.....Residence

Inspector of election.....

(To be signed by the inspector administering oath to applicant.)

Witnesses.

NameResidenceInspector of Election.

NameResidenceInspector of Election.

NameResidenceInspector of Election.

(Board of inspectors.)

Name of challenger.....

Residence of challenger.....

Any person who applies personally to any board of inspectors for registration for any election may be challenged by any qualified elector, present. If such applicant be so challenged, or if any member of the board of inspectors shall have reason to sus-

pect that such applicant is not entitled to have his name enrolled on such register, the chairman of the board of inspectors, or any member of such board is hereby authorized to and shall administer to such applicant the following oath: You do solemnly swear (or affirm) that you will true answers make to the questions touching upon qualifications as an elector and such other questions as may be put you tending to establish your identity and one of the inspectors shall thereupon read to such challenged person each and every question printed upon the challenge affidavit herein provided for and shall enter in ink opposite each question the answer thereto given by such applicant. The applicant shall subscribe his name to such challenge affidavit, which shall also be subscribed to by the inspector administering the above oath and as witnesses by the other inspectors present, who shall certify over their names, the fact that the applicant did apply for registration, that he was duly sworn and that the answers set opposite the printed questions are the true answers given to such questions by the challenged applicant. Inspectors shall also enter in the place provided on the challenge affidavit a description of the person challenged and the name and address of the person challenging. If the applicant shall by his answers satisfy a majority of the board of inspectors of his right to be registered, they shall enroll his name as an elector; if not, they shall point out to him the qualifications which he lacks as an elector and his name shall not be enrolled upon such register except as provided by section thirty-one of this act, and upon any such proceeding the challenge affidavit of such applicant shall be submitted in evidence to such court, justice or judge. If the applicant shall refuse to make oath to the questions put to him and the answers given thereto by him or shall refuse to answer any question upon the challenge affidavit his name shall not be placed

upon the register, or if recorded thereon previous to his ascertained disqualification as an elector, the inspectors shall enter in the remark column after such name the word disqualified and no person shall be allowed to vote on such name at the election. Any applicant for registration, inspector or other person who shall incorporate or cause to be incorporated any false statement in such challenge affidavit shall be deemed guilty of perjury. At the close of each day of registration the inspectors of election shall detach from the stubs the challenge affidavits signed by the persons challenged during the day and in cities shall deliver them to the police captain of the precinct in which the election district is located or to an officer thereof, and such police captain or commanding officer of such precinct shall immediately cause an investigation of the truth of such affidavit to be made, and if such investigation shall prove the same to be false in any particular affecting the right of the challenged person to register or vote, the said officer shall deliver the same to the district attorney of the county, together with the evidence of the falsity of such affidavit, and the district attorney shall forthwith present the same to the grand jury of such county. In election districts outside of cities such affidavit shall be delivered by the inspectors to the sheriff of the county who shall proceed in like manner, provided, however, that in the election districts within the metropolitan elections district all such challenge affidavits shall be delivered by the police or sheriff forthwith at the close of each day of registration to the state superintendent of elections for the metropolitan elections district, who shall proceed in like manner. When the name of a person who has signed a challenge affidavit, shall be enrolled on the register, the inspectors shall enter in the column headed remarks on such register opposite such name the word affidavit, giving the consecutive number printed on such affidavit. At the close of the last day of registration the inspectors shall file the book of stubs and unused challenge affidavits with the officer from whom it was received by the inspectors and such officer shall preserve it in his office. The secretary of state shall also furnish for each election district within the met-

metropolitan elections district a duplicate book of challenge affidavits but without the stubs; each of which affidavits shall be printed with the words official copy of above the words challenge affidavit printed thereon, and there shall be printed upon the outside cover of each such book the words copy book of challenge affidavits, together with proper instructions to the inspectors of election regarding the same as herein provided. Such duplicate books of challenge affidavits shall be delivered to the boards of inspectors of election within the metropolitan elections district at the same time and in the same manner as the original book of challenge affidavits. The inspectors of election, or one of them designated by the chairman of the board, of the election districts within the metropolitan elections district shall, at the time of filling out and signing of any challenge affidavit as heretofore provided, make a duplicate of such challenge affidavit, upon the copy of the challenge affidavit numbered to correspond with the original challenge affidavit. The duplicate book of challenge affidavits shall be in the custody of the chairman of the board of inspectors until the close of the polls of the election for which the registration is made, when it shall be filed together with the book of unused original challenge affidavits and stubs in the office of the board or officer delivering the same to the board of inspectors. Except as hereinafter provided any person who shall wilfully suppress, alter, destroy or mutilate any signed challenge affidavit or official copy thereof shall be deemed guilty of a felony. The officer or board with whom the original challenge affidavit or copies thereof are filed may destroy the same six months after the date of the election for which they were made, except those which are to be used in any criminal prosecution. (*Thus amended by chap. 544, L. 1901.*)

Subdivision 7. Record of challenges.—If, at a meeting of the board of inspectors for registration, any elector shall, upon oath, declare that he has reason to believe that any person on the register of electors will not be qualified to vote at the election for which the registration is made, the board of inspectors shall place the

words "to be challenged" opposite the name of such person, and when such person shall offer his vote at such election, the general oath as to qualifications shall be administered to him, and if he shall refuse to take such oath he shall not be permitted to vote.

(For form of oath, see Forms at end of article.)

Subdivision 8. Production of naturalization papers.—It shall be the duty of every naturalized citizen before being registered to produce to the inspectors, if any inspector shall require, his naturalization papers or a certified copy thereof for their inspection, and to make oath before them that he is the person purporting to have been naturalized by the papers so produced, unless such citizen was naturalized previous to the year eighteen hundred and sixty-seven. If, however, such naturalized citizen can not for any reason produce his naturalization papers, or a certified copy thereof, the board of inspectors, or a majority of such board may place the name of such naturalized citizen upon the register of electors upon his furnishing to such board evidence which shall satisfy such board of his right to be registered.

Subdivision 9. Any person knowingly taking a false oath before the board of inspectors, shall upon conviction thereof be punished as for willful and corrupt perjury.

Subdivision 10. Persons excluded from the right of suffrage.—No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or any other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or for registering or refraining from registering as an elector, or who shall make any promise to influence the giving or withholding any such vote or registration, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of an election, shall vote at such election. No person who has been convicted of a felony shall have the right to register for or vote at any election unless he shall have been pardoned and restored to the rights of citizenship. (*Added by chap. 654, L. 1901.*)

Naturalization papers must be produced before board of inspectors; but if not to be found, secondary evidence of their contents must be received. (*People ex rel. Noel v. Smith, 10 Misc. 100.*)

A judgment of naturalization by a court of competent jurisdiction can not be attacked or impeached collaterally by a board of inspectors. (*People ex rel. Christern v. Walsh, 9 Abb. N. C. 465.*)

Inability to produce the naturalization papers of his parents will not lose to a person the right of proving his citizenship before a board of registry by secondary evidence. The person's own oath in the absence of impeaching testimony makes out a *prima facie* case. (*People ex rel. O'Donnell v. McNally, 59 How. 500.*)

Presenting fraudulent certificates to registry boards to procure registration a felony. (*See § 413, Penal Code, post.*)

Procuring fraudulent certificates of naturalization in order to vote a felony. (*See § 413, Penal Code, post.*)

Subdivision 11. When a town or village election is held at the same time with a general election all electors in such town or village to be entitled to vote at such town or village election must be registered as provided by law for the enrollment of electors for any general election in such town or village. (*Subd. added by chap. 405, L. 1902.*)

§ 35. Subdivision 1. **Certification and custody of register.**—At the close of each meeting for the registration of electors, for a general or other election in a city, or in an election district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration their certificate, to the effect that such register as it now is comprising (here insert the number) names, is a true and correct register of the names and residences of all the electors qualified to vote at such election in such district, who have personally appeared before the board of registration, and such register so certified shall be presumptive evidence that the names and places of residence contained therein are the names and places of residence given by the persons registered respectively. At the close of each meeting for the registration of electors for a general or other election elsewhere than in a city, or in a district wholly within a village having five thousand inhabitants or more, the inspectors shall append to each book of registration a certificate to the effect that such register as it now is, comprising (here insert the number) names, is a true and correct register of all electors qualified to vote at such election in such district, who have personally applied for registration, or whose names the board was required by law to place thereon. Each such certificate shall be signed by all the inspectors, but in case one inspector required to sign such certificate shall fail for any reason so to do, he may be required by the officer with whom such register is filed to sign such register at a subsequent date. In all cases a majority of the inspectors must sign such certificate at the close of each day of registration.

The provisions as to certifying and preparing the registers are merely directory, and a failure on the part of the inspectors to properly observe the law in this respect will not operate to invalidate the registers and deprive citizens of their votes. (*People ex rel. Frost v. Wilson*, 62 N. Y. 186.)

Subdivision 2. **Method of entry and filing of registry.**—The register of electors made by the chairman of the board of inspectors shall be, and shall be known, as the public copy of registration. Such public copy shall be left in a prominent position in the place of registration from the first day of registration until election day, and shall at all reasonable times be open to public inspection and for making copies thereof. Each other inspector shall carefully preserve his register of elec-

tors and shall be responsible therefor, until the close of the canvass of the votes on election day, except as hereinafter provided for in cities of the first class. At the close of each day of registration the inspectors shall draw a line in ink immediately below the name of the elector last entered upon each page of each such register. Upon the succeeding day of registration, they shall enter the names of electors in the alphabetical order of the first letter of the surname below the line so drawn upon the proper page after the close of the previous day of registration. Upon the close of the last day of registration, the inspectors shall again carefully compare all the books of registration, to see that they are identical as to their contents, and, shall certify, as a board, in the proper place provided therefor upon each such register that such register is a true and correct register of persons enrolled by them in such district for the next ensuing election, and shall state the whole number of such persons so enrolled. In cities of the first class, at the close of the last day of registration, the chairman of the board of inspectors shall take from an inspector of opposite political faith from himself, the register of elections made by such inspector, and deliver it to the police, who forthwith shall file the same if in the city of New York, with the board of elections in the borough of Manhattan and with the chief clerk of the branch office of the board of elections of each other borough in which the election district is located and if any other city with the city clerk. Such registers so filed, shall be a part of the records of the offices in which it is filed. The two other inspectors of opposite political faith from each other shall each retain their respective registers of electors for use on election day. All registers of electors shall at all reasonable hours be accessible for public examinations and making copies thereof, and no charge of any kind shall be made for such examination or for any elector making a copy thereof. In cities of the first class the public copy of registration shall be used, if necessary, on election day by the inspector whose register was filed as herein provided by said chairman. Any person who shall alter, mutilate, destroy or remove from the place of registration the public copy of such registration, shall be guilty of a felony, and shall be punished upon conviction thereof by imprisonment in a state prison for not less than two nor more than five years, unless otherwise

provided by law. If, in cities the board of inspectors shall meet on the second Saturday before the election for the purpose of revising and correcting the register of electors in pursuance of an order of the supreme court, a justice thereof or a county judge, as provided in section thirty-one of the election law, the inspectors shall certify forthwith to the officer with whom the copy of the register is filed, the change or changes made upon such register in pursuance of such order. At any revision of registration for an election other than a general election, the quadruplicate register of electors for the last preceding general election shall be furnished to the inspectors of election by the officer or board having the custody thereof, and the inspectors shall certify to the officer or board in cities with whom the registers are filed, the changes, additions, or alterations made in such registers for such election. In the cities of the first class at the close of the canvass of the votes of any election, or within twenty-four hours thereafter the two copies of the register of electors used by the inspectors and the public copy thereof shall be filed respectively with the board of elections in the borough of Manhattan and with the chief clerk of the branch office of the board of elections in each other borough of the city of New York, in which the election district is located, and with the city clerk of Buffalo. In all election districts other than in cities of the first class, one copy of the register used on election day by the inspectors shall within twenty-four hours after the close of the election be filed in the office of the town or city clerk of the town or city in which such election district is, and the other copies with the county clerk. It shall be the duty of the officers with whom such registers of the election districts within the metropolitan elections district, are filed to forthwith file one copy of such register for each election district with the state superintendent of elections for the metropolitan elections district. Such register of electors shall be carefully preserved for use at any election which may be ordered or held in either of such counties or cities, respectively, prior to the next ensuing general election at which they may be required. (*Thus amended by chap. 95, L. 1901.*)

One who induces or procures the board of registry to conceal the lists and refuse the public access to them is equally guilty with the inspectors of a violation of the law. (*People v. McKane, 143 N. Y. 455.*)

Subdivision 3. At the close of registration on the fourth day in the election districts in cities and villages of five thousand inhabitants or more and at the close of registration on the second day in other districts, the board of inspectors shall forthwith certify to the officer or board charged with the duty of furnishing ballots to such district, and in the election districts within the metropolitan elections district to the state superintendent of elections the total number of electors enrolled in such district. In cities inspectors of each district shall also furnish to the police at the close of each day of registration, the total number of electors enrolled on such day, in their respective districts. The police of the cities within the metropolitan elections district shall forthwith at the close of each day of registration file with the state superintendent of elections a certificate showing the total number of electors enrolled therein in the respective election districts thereof. (*Thus amended by chap. 630, L. 1899.*)

(For Form for Certificate, see Forms at end of article.)

§ 36. Subdivision 1. **Delivery of blank books for registration certificates and instructions.**--The secretary of state shall purchase whenever he deems it advisable for the best interests of the state, a suitable number of blank books for register of electors, with blank certificates and brief instructions for registering the names of electors therein, in the forms respectively provided in subdivisions one and two of section thirty-two of the election law, at least four of such books for each board of inspectors in the state, and such number of extra copies thereof as in his judgment may be necessary for each county or city to replace lost or damaged registers before delivery to the inspectors. Such register of electors shall have the leaves thereof indexed with the letters of the alphabet, beginning with the letter "A" for the first leaf, and so on. He shall transmit such registers, certificates and instructions to the county clerk of each county, except those counties the whole of which are included within the city of New York; to each such county clerk a sufficient number thereof for the use of the boards of inspectors within his county, and to the board of elections of the city of New York, located in the borough of Manhattan, and to the chief clerk of the branch office of the board of elections in each other borough within the city of New York

a sufficient number thereof for the use of each board of inspectors within said respective boroughs at least twenty days prior to the first day of registration for a general election in each year. The county clerk shall deliver such books to the town clerks of each town, and to the city clerk of each city in such county, by mail or otherwise, at least five days prior to the first day of registration, and such town clerk and city clerks, and the said board of elections and chief clerk of branch offices of the board of elections in the city of New York shall deliver such books to the inspectors of said boroughs, respectively, before the hour set for registering the names of electors on the first day of registration. On each day of registration, the board of elections of the city of New York, and the city clerk of Buffalo shall furnish to each board of inspectors in their respective cities, blanks for the list of electors provided for in subdivision three of section thirty-two of the election law. (*Thus amended by chap. 95, L. 1901.*)

Subdivision 2. Delivery of previous registers and poll books to inspectors.—Each town clerk with whom the register of the last preceding general election in any election district, elsewhere than in a city or wholly within a village having five thousand inhabitants or more, shall have been filed, shall cause such register and one of the poll books to be delivered to the board of inspectors of such district at the opening of its first meeting for the registration for any election. If a new election district shall have been formed in a town since such general election, the clerk of such town shall, before the first meeting for registration thereafter in such new election district, make a certified copy of each register for such general election of each election district out of which such new district shall have been formed, and shall cause such certified copy to be delivered to the board of inspectors of such new election district at the opening of such meeting for registration. Such board, at such meeting, shall place upon the register of electors all persons whose names are upon such copies who are qualified to vote in such election district at the election for which such meeting is held, except the names of persons who are required to personally appear for registration. If a new election district shall have been formed in a city since such general election, the clerk or board with whom the register of electors for such last preceding general election shall have been filed shall,

before the meeting of the inspectors of election of such new district for registration for any other election, make a certified copy of each register of electors for such last preceding general election of each election district out of which such new election district is formed, and the inspectors of such new election district shall, at such meeting for registration for such election, place upon the register of electors the names of all persons upon such copies who are qualified to vote in such election district at the election for which such meeting is held.

FORMS FOR ELECTION LAW, ARTICLE 2.

FORM No. 13.

(See § 35, Election Law, subd. 3.)

Certificate of total number of electors enrolled.

To the (insert name of officer or board):

We, the undersigned, composing the board of inspectors of election district No. of the of , do hereby certify that at the close of registration, on the day of registration, the total number of electors enrolled in such district was .

Dated at this day of , 189 .

Board of Inspectors.

(The above certificate to be forthwith sent to the officer or board charged with the duty of providing ballots for this election district.)

FORM No. 14.

Certificate for police of number of electors enrolled.

NOTICE.—A certificate in this form must be properly filled out and signed by the inspectors at the close of each day of registration, and delivered to the police.

BUFFALO, N. Y., *October* , 1900.

Election district ward

We hereby certify that the total number of electors enrolled upon the register of electors of this election district on this, the day of registration for the general election to be held November the sixth, 1900, was

Board of Inspectors.

FORM No. 15.

(See § 34, Election Law, subd. 3.)

Oath to be administered to illiterate disabled voters.

You do solemnly swear (or affirm) that you will be unable to prepare your ballots without assistance, because (Continue with statement of specific disease, etc., assigned as cause of alleged disability).

FORM No. 16.

(See § 34, Election Law, subd. 7.)

Form for oath for record of challenge.

You do swear (or affirm) that you have reason to believe that , whose name appears on the register of electors in this election district, will not be qualified to vote at the election for which such register of electors is made.

ARTICLE III.

Primaries, Conventions and Nominations.

- SECTION** 50. Definitions of primary and convention.
- 51. Notice of primary.
 - 52. Organization and conduct of primaries.
 - 53. Qualifications of voters at primaries.
 - 54. Duties of chairman of primary.
 - 55. Watchers and canvass of votes at primaries.
 - 56. Party nominations.
 - 57. Independent nominations.
 - 58. Places of filing certificates of nominations.
 - 59. Times of filing certificates of nominations.
 - 60. Certification of nominations by secretary of state.
 - 61. Publication of nominations.
 - 62. Lists for town clerks and aldermen.
 - 63. Posting town and village nominations.
 - 64. Declination of nomination.
 - 65. Objections to certificates of nominations.
 - 66. Filling vacancies in nominations.

§ 50. **Definitions of primary and convention.**—As used in this article, a convention is an assemblage of delegates representing a political party or independent body, duly convened for the purpose of nominating candidates for office, electing delegates to conventions, electing officers for party organizations, or for the transaction of any other business relating to the affairs or conduct of the party or independent body; and a primary is any other assemblage of voters of a political party or independent body duly convened for any such purpose.

Misdemeanors at, or in connection with, political caucuses, primary elections, enrollment in political parties, committees and conventions. *See* § 41 *Penal Code, post.*

§ 51. **Notice of primary.**—No primary shall be held in a city or village having a population of over five thousand, as shown by the last state or federal enumeration, unless at least two days' notice thereof shall be published in a daily newspaper in such city or village, of the same politics with the political party giving the notice at least twice; but if no such newspaper is published in the same city or village where such primary is to be held, such notice shall be published in a weekly newspaper, if any, in such

city or village of the same politics of the political party giving the notice before such primary is held. But if no such daily or weekly newspaper be so published in such city or village, such notice shall be posted in at least six public places in such city or village at least two days prior to the holding of such primary. Such primary shall be opened at such hour between nine o'clock in the forenoon and nine o'clock in the afternoon, as may be prescribed by the political party or independent body holding the same. Elsewhere than in such a city or village, every primary shall be called and held pursuant to notice given according to the regulations and usages of the political party or independent body holding it.

Where the only newspaper published in a city or village is opposed to one of the two factions of a party it is sufficient compliance with the statute for that faction to post the notices of primaries. (*Matter of Mitchell*, 81 Hun, 401.)

§ 52. **Organization and conduct of primaries.**—Every primary held by any political party or independent body for the purpose of choosing candidates for office, or the election of delegates to conventions, or for the purpose of electing officers to any political party or independent body, shall be presided over and conducted by officers to be selected in the manner prescribed by the rules or regulations of the political party or independent body holding such primary. If the rules and regulations of the political party or independent body calling it so require, or if it shall be, by a vote of the electors present, so resolved, or, if it be in a city or village having a population of over five thousand according to the last preceding federal or state enumeration, and five qualified electors of the district where it is held, belonging to the political party calling it, shall serve upon the secretary or chairman of the general committee of the party, or of its organization in such city or village, or upon the chairman of the district committee, a written demand, stating that they so require it, the following additional requirements, or such of them as may be specified in such demand, shall be complied with:

1. The chairman and other officers shall take the constitutional oath of office.
2. Candidates and delegates and officers of the organization or committee shall be chosen by ballot.

3. The meeting shall be held open not less than one hour for voting thereat.

4. The tellers shall keep a poll list of the name and residence of each person voting, and assist the secretary in the canvass of the votes.

5. An elector shall be appointed watcher for each candidate or set of candidates or delegates requesting the same.

6. The chairman shall publicly announce the number of votes cast for each candidate, and the result of the canvass at the completion thereof, and shall, if the primary be held in the city or village having a population of more than five thousand, as shown by the last preceding federal or state enumeration, file a statement of such results and the oath taken at such primary, and the poll list kept thereat in the office of the county clerk, if located in such city or village, and otherwise, in the office of the city or village clerk, and the papers so filed shall be public records and open to inspection and examination by any elector of the state.

A meeting or caucus may properly adjourn to another day if for any good and sufficient reason it is unable to perform and complete its duties on the day it was called for. (*Matter of Broat*, 6 Misc. Rep. 445.)

That political parties must provide rules and regulations for their conduct or management is recognized by the election law and is a necessity since under our system of government the affairs of the state are conducted through the medium of such parties. (*Matter of Redmond*, 5 Misc. Rep. 369.)

Recent legislation has been such as to bring within the law the action of all party caucuses, conventions and committees. It has at last become recognized that, under our form of government, the primaries, caucuses and conventions of parties should be surrounded by all the safeguards and be conducted with the same conformity to law that our regular elections should be. (*Matter of Broat*, 6 Misc. Rep. 445.)

Where there are no rules governing the action of a town committee, it must be held to the same rules that at common law govern any board or body of officers; that is, the act of the majority is the act of the committee, and such act must be performed in session, when all are present or have had due notice to be. (*Matter of Broat*, 6 Misc. Rep. 445.)

Minority to acquiesce. When a majority of those members of a convention whose seats are uncontested decide as to who of two or more contestants should be admitted to the convention, party loyalty and obedience to party usage require the minority to acquiesce. (*Matter of Broat*, 6 Misc. Rep. 445.)

The proceedings in a primary are irregular, if not held in a hall of sufficient size to accommodate the usual number of voters and where it is

filled with the adherents of one faction to the exclusion of the others, where proceedings occupy only five or ten minutes and a ballot is refused. (*Matter of County Clerk of Clinton*, 21 Misc. 543.)

§ 53. Qualifications of voters at primaries.—No person shall be entitled to vote at any primary unless he may be qualified to vote for the officers to be nominated thereat on the day of election. They shall possess such other qualifications as shall be authorized by the regulations and usages of the political party or independent body holding the same.

When an applicant has been refused enrollment as a qualified voter at a party's primaries, an alternative writ of mandamus will issue to try his qualifications as a party voter. (*Matter of Guess*, 16 Misc. Rep. 306.)

It may well be doubted whether the condition of a voter's qualification to vote at a party primary, that he shall have voted the ticket of such party at the last election, is reasonable or lawful. (*Matter of Guess*, 16 Misc. Rep. 306.)

It is the legal right of a party voter to vote at the primaries of his party, and the question whether an applicant is entitled to be enrolled and to vote at the primaries, does not depend upon the discretion, nor upon the decision of the enrolling committee, but upon the fact of whether he possesses the requirements. (*Matter of Guess*, 16 Misc. Rep. 306.)

§ 54. Duties of chairman of primary.—The chairman may administer any oath required to be administered at any primary. He shall decide all questions that arise relating to the qualifications of voters when the voter is challenged by an elector and shall reject such vote, unless the person offering the vote is willing to be, and shall be sworn, that he will truly answer all questions put to him touching his qualification as such voter, and shall state under oath that he is qualified to vote at such primary.

When the chairman refuses to perform the duties of a chairman or arrogates to himself the power lodged in the meeting or caucus itself, the caucus or meeting have power or authority to elect another chairman in his place. (*Matter of Broat*, 6 Misc. Rep. 445.)

It is the duty of the chairman to put motions properly made to vote. He has no right to declare a motion or resolution carried without a vote being taken, unless by unanimous acquiescence. (*Matter of Broat*, 6 Misc. Rep. 445.)

It is illegal for the chairman of an assembly district convention, chosen by the county committee, to refuse to call the roll of the certified members, on a vote for temporary chairman, *putting the question viva voce instead*. (*Supreme Ct., Sp. T.*, 1896. *French v. Roosevelt*, 18 Misc. 307.)

Must secure to every voter his right to vote. A chairman of a pri-

mary must secure to every voter his right to vote, and make possible a "fair, full and free expression of the party will." (*In re County Clerk of Clinton County*, 48 N. Y. Supp. 408.)

§ 55. Watchers and canvass of votes at primary.—The ballot box used at any primary shall be examined by the secretary and by the tellers, if any, in the presence of the watchers, if any, before any ballots are received to see that there are no ballots therein. Such watchers are entitled to be present from the commencement of the primary to the close of the canvass, and the signing of the certificate thereof. At the close of the canvass of the ballots cast for each candidate, the secretary shall publicly announce the vote and the result of the canvass.

§ 56. Party nominations; choice of emblems for ballot.—Nominations made as provided by this section shall be known as party nominations, and the certificate by which such nominations are certified shall be known as a party certificate of nomination. Party nominations of candidates for public office can only be made by a convention, or by a duly authorized committee of such convention of a political party which at the last preceding general election before the holding of such convention at which a governor was elected, cast ten thousand votes in the state for such officers; provided, however, that party nominations of candidates for public office to be voted for only in a town, or ward of a city, or a village or subdivision thereof, can only be made by a convention or primary or by a duly authorized committee of such convention or primary of a political party, which, at the last preceding general election before the holding of such convention or primary at which a governor was elected cast ten thousand votes in the state for such officer. The party certificate whereby such party nominations are certified shall contain the title of the office for which each person is nominated, the name and residence of each such person, and, if in a city, the street number of the residence of each such candidate and his place of business, if any. It shall also designate, in not more than five words, the name of the political party which the convention, primary or committee making such nomination represents. It shall be signed by the presiding officer and a secretary of such convention or primary, or, if made by a committee, by a majority of the members thereof, who shall add to their signature their respective places of residence, and shall

make oath before an officer qualified to take affidavits that the affiants were such officers of such convention or primary, or that they are members and constitute a majority of such committee, and that such certificates and the statements therein contained are true to the best of their information and belief. A certificate that such oath has been administered shall be made and signed by the officer before whom the same was taken, and attached to such certificate of nomination. When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention or primary which authorized such committee to make such nomination. A certificate of nomination filed pursuant to this section may upon its face appoint a committee of one or more persons for the purposes specified in section sixty-six of this act. When a party nomination is made by a state convention of a candidate or candidates to be voted for by the electors of the entire state, it shall be the duty of such convention to select some simple device or emblem to designate and distinguish the candidates of the political party making such nominations or nomination. Such device or emblem shall be shown by a representation thereof upon a certificate signed and duly executed by the presiding officer and a secretary of said convention, which certificate shall be filed with the secretary of state, and such device or emblem, when so filed, shall in no case be used by any other party or independent body. When any independent body shall make a like nomination, as provided by the fifty-seventh section of this act, it shall be the duty of the persons who shall sign and execute the certificate of nomination of such candidate or candidates, to likewise select some simple device or emblem to designate and distinguish the candidate of such independent body making such nomination, and such device or emblem shall be shown by the representation thereof upon a certificate signed and duly executed by the proper parties authorized for that purpose. The device or emblem so chosen, when filed as aforesaid, shall be used to designate and distinguish all the candidates of the same political party or independent body nominated by such political party or independent body, or duly authorized committee, or primary thereof, in all districts of the state and shall continue to be used to designate and distinguish the candidates of such political party or independent body in all districts of the state until changed by the state convention of the political party or independent body choosing such device or emblem. The device or emblem chosen, as aforesaid, may be the representation of a star, an animal, an anchor, or any other appropriate symbol, but neither the coat of

arms nor seal of any state, nor of the United States, the national, state or national flag, nor any religious emblem or symbol, nor the portrait of any person, nor a representation of a coin or of the currency of the United States shall be chosen as such distinguishing device or emblem. If the certificate of nomination of two or more different political parties or independent bodies shall designate the same, or substantially the same, device or emblem or party name, the officer with whom the certificates of nominations are filed shall decide which of said political parties or independent bodies is entitled to the use of such device, or emblem, or party name, being governed as far as may be, in his decision by priority of designation in the case of the device or emblem, and of use in the case of the party name. If the other nominating body shall present no other device or party name after such decision, such officer shall himself select for such other nominating body another device or party name, so that no two different parties shall be designated by the same device or party name. If there be a division within a party, and two or more factions claim the same, or substantially the same device or name, the officer aforesaid shall decide between such conflicting claims, giving preference of device and name to the convention or primary, or committee thereof, recognized by the regularly constituted party authorities. Any questions arising with reference to any device, or to the political party or other name designated in any certificate of nomination filed pursuant to the provisions of this section, or of section fifty-seven of this article, or with reference to the construction, validity or legality of any such certificate, shall be determined in the first instance by the officer with whom such certificate of nomination is filed. Such decision shall be in writing, and a copy thereof shall be sent forthwith by mail by such officer to the committee, if any, named upon the face of such certificate, and also to each candidate nominated by any certificate of nomination affected by such decision. The supreme court, or any justice thereof, within the judicial district, or any county judge within his county, shall have summary jurisdiction upon complaint of any citizen, to review the determination and acts of such officer, and to make such order in the premises as justice may require, but the final order must be made on or before the last day fixed for filing certificates of nominations to fill vacan-

cies with such officer as provided in subdivision one of section sixty-six of this article. Such a complaint shall be heard upon such notice to such officer as the said court or justice or judge thereof shall direct. If any certificate of nomination of candidates to be voted for by the electors of the entire state, filed with the secretary of state, pursuant to the provisions of this act, shall omit to designate a device or emblem to distinguish the candidates of the political party or independent body making such nomination, it shall be the duty of the secretary of state to select a device or emblem for that purpose, and such device or emblem so chosen shall be used to distinguish all candidates of that party or independent body throughout the state, whether such candidates are nominated for state, or for local offices; and if any certificate of nomination of candidates to be filled by the electors of a district less than the entire state shall be filed with the secretary of state, or with any other public officer pursuant to this article, by a political party or independent body which has made no nomination of candidates for offices to be filled by the electors of the entire state, and such certificate of nomination shall omit to designate a device or emblem to distinguish the candidates nominated in such certificate, it shall be the duty of the secretary of state or other public officer with whom such certificate of nomination is filed, to select a device or emblem to represent the candidates named in such certificate of nomination. (*Thus amended by chap. 654, L. 1901.*)

[For Forms for Party Certificates of Nomination, see Forms at end of this article.]

Misconduct in relation to certificates of nomination is punishable by imprisonment for not less than one nor more than five years. (§ 41g, *Penal Code*.)

Where, upon a refusal to call the roll, another convention is held in the same hall upon a roll call, in which a majority of the legal delegates participate, the nominees of the latter convention will be deemed regular. (*French v. Roosevelt*, 18 Misc. 307.)

The use of the name National Democratic Party is not an infringement on the use of the name "Democratic Party." (*Matter of Green*, 9 App. Div. 223; 41 N. Y. Supp. 177.)

Party emblems. Where a dispute arises owing to the substantial identity of names or emblems chosen by two political parties, it is to be determined by the officer with whom the certificates of nomination are filed. Under the statute such officer must decide the dispute by determining as a matter of fact the "priority of designation in the case of a device or emblem, and of use in the case of the party named" irrespective of the filing of the certificates. (*Matter of Smith*, 36 Misc. 292; 73 N. Y. Supp. 463.)

One delegate may cast vote. It is proper under party usage for one delegate from a town to cast the votes of all other assenting delegates of the town. (*In re County Clerk of Clinton County*, 21 Misc. 543.)

Holders of minority certificates not entitled to recognition. Certificates representing the minority in the primaries, not signed by the officers of the primaries, do not give the holders thereof any title to recognition as delegates to a county convention. (*In re County Clerk of Clinton County*, 48 N. Y. Supp. 408.)

The Primary Election Law does not apply to the electoral proceedings of the Social Democratic Party, as it cast in 1900 less than three per cent. of the entire vote in the state for governor, and has never elected to come in under that law; but as it then cast more than ten thousand votes in the state it has a right to nominate by a convention held according to this article of the Election Law, and the candidate has a right to have his name printed in the official ballot. (*Matter of Ward*, 36 Misc. 727; 75 N. Y. Supp. 403.)

A party nomination regularly made by a convention remains in force, and the convention has no power to make another. (*People ex rel. Simpson v. Police Comrs.*, 10 Misc. Rep. 98.)

When a convention fails to nominate for a certain office, electors are not, nevertheless, deprived of their right to vote for such office. (*People ex rel. Goring v. President, etc.*, 144 N. Y. 616.)

No other convention or committee than the one nominating has power to review the nominations and to say which of two rival factions presenting delegates from primaries is the regular one. (*Matter of Cowie*, 33 N. Y. St. Rep. 710.)

A political convention is a law unto itself, but, where the duty is cast upon courts and judges of determining the regularity and fairness of political methods, those methods must be subjected to the same tests as would those of any other body of men whose good faith is questioned, and no court or judge would be justified in sustaining them when found to be inconsistent with that degree of sound morals which must characterize an ordinary affair of business, even though they be recognized and approved by senatorial and state conventions of the same political organizations. (*Matter of Woodworth*, 16 N. Y. Supp. 147.)

Regularity of nomination. What constitutes regularity of nomination depends upon the usages of the party itself and not upon any rules or regulations which may seem just and proper to courts or judges. (*Matter of Redmond*, 5 Misc. Rep. 369.)

Power to revoke nomination. A nomination made by a city nominating convention may be rescinded by it before final adjournment. (*Matter of Nash*, 36 Misc. Rep. 113; 72 N. Y. Supp. 1057.)

Regularity of delegates to congressional conventions elected at assembly district conventions. If the regularity of an assembly convention is determined by the state committee and state convention this action will govern the regularity of delegates elected at the same time to a congressional convention. (*Fairchild v. Ward*, 151 N. Y. 359.)

Regularity of assembly district convention. Where two assembly district conventions are organized, the decision of the state convention and state committee as to regularity will be controlling on the state officers and the courts. (*Fairchild v. Ward*, 151 N. Y. 359.)

Delegates to a convention can represent a party to the extent of the authority given them. Delegates to a congressional convention elected to choose delegates for the national convention cannot appoint a new congressional committee, and the original committee will continue in power. (*Fairchild v. Ward*, 151 N. Y. 359; 45 N. E. Rep. 943.)

Factions. The word "faction," as used in the Election Law, refers to different political organizations in the same party and not to contending members of the same organization engaged in the support of different candidates who are both seeking or claiming a nomination to office from the same political organization. (*In re Heacock*, 18 Misc. 311.)

Where there are several factions of the same party in the county,

the state convention decides which faction shall have the advantage of regularity. The regular faction then becomes entitled to the sole use of the party emblem for its local candidates. Each local faction can have its own emblem for all its own local candidates; but a local faction, not the regular one, having its own local emblem, cannot place under such emblem the names of the candidates nominated by the party at large for state offices. (*Fernbacher v. Roosevelt*, 90 Hun. 441.)

Courts will not interfere in contests between factions of a political party unless there has been no adjudication of the question of regularity by some division of the party which is conceded to be superior in point of authority to the one in which the contention arose. (*Matter of Pollard*, 55 N. Y. St. Repr. 155.)

Any party interested may apply to the court to investigate and decide between the contending candidates, but a member of a county committee, not one of the candidates nominated, is not an interested person. (*Matter of Woodworth*, 64 Hun. 522.)

Hearings on legality of nominations and certificates.

The proceedings on the validity of a certificate may be heard on affidavits. (*Matter of Adams*, 21 Misc. 396; 47 N. Y. Supp. 543; *Matter of Argus Co.* 138 N. Y. 557; *Matter of Fairchild*, 151 N. Y. 359; *People v. Petra*, 92 N. Y. 128.)

Affidavits of purported signers of certificates are admissible to impeach the certificate of the notary. (*In matter of Adams*, 21 Misc. Rep. 396.)

Under general objections to certificates of nominations, signers of certificates may testify that they never swore to the certificate. (*In matter of Adams and McParlin*, 21 Misc. Rep. 396.)

It is competent for the notary to admit that he inadvertently failed to swear certain signers of the certificate. (*In matter of Adams*, 21 Misc. Rep. 396.)

Designation of signer's residence and oath that he is an elector and has truly designated his residence, are matters of substance and are essential to a valid certificate. (*In re McParlin*, 21 Misc. 396.)

The provisions of the law relative to certificates of nomination are to be liberally construed. The notary's certificate following the words of the statute is sufficient though it does not explicitly show the identity of the signers of the certificate with the affiants. (*Matter of McClosky*, 21 Misc. 365; 47 N. Y. Supp. 294.)

Proceedings to review determination of officers.

The proceedings must be brought within the judicial district where the complainant lives and in which the nomination is made, not the district in which the officer lives with whom the certificate was filed. (*Matter of Fairchild*, 151 N. Y. 359; 45 N. E. Rep. 943.)

A justice of the supreme court cannot hear such proceeding. (*Ib.*)

A review of the determination of the secretary of state concerning certificate of nomination must be confined to the papers used before him. (*Matter of Fairchild*, 151 N. Y. 359; 45 N. E. Rep. 943.)

The provision of the statute that the order reviewing the determination must be made on or before the last day fixed for filing certificates of nom-

inations to fill vacancies, applies to the original order which is appealed from, and the appellate division can review this order and make a determination of the appeal after that date. (*Matter of Emmett*, 150 N. Y. 538.)

Under section fifty-six the court is not bound by the decisions of party conventions, where it makes an order to review the decision of the secretary of state as to the regularity of party nomination. (*Supm. Ct. Sp. T.*, 1896. *In re Heacock*, 18 Misc. Rep. 311; 41 N. Y. Supp. 161; *Matter of Broat*, 6 Misc. Rep. 445.)

An order by a justice of the supreme court under section fifty-six, determining the right to file a certificate and reviewing the original determination of the county clerk, is appealable to the appellate division of the supreme court. (1896. *Matter of Emmett*, 150 N. Y. 538; 44 N. E. Rep. 1102; rev'g 9 App. Div. 237; *Matter of Mitchell*, 81 Hun. 401.)

A supreme court justice can, on proper motion and the filing of a petition, give an order to the county clerk to review the action of a filing officer. (*Matter of Cuddeback*, 3 App. Div. 103; 39 N. Y. Supp. 38.)

An appeal may be taken from an order made by a supreme court justice reviewing the acts of the officer who files the certificates of nomination, even though the election has been held. The question may be one of great public interest. (*Matter of Cuddeback*, 3 App. Div. 103.)

Time within which order may be made.—The provisions of this section to the effect that a final order of the court reviewing the determinations and actions of the officers with whom certificates of nomination are filed, must be made on or before the last day fixed for filing certificates of nominations to fill vacancies, viz., fifteen days before election, is directory and not mandatory, and where the court has acquired jurisdiction and a case has been submitted within the time required by the statute, its order will be effectual, although made after the expiration of such time. (*Matter of Hennessy*, 164 N. Y. 393, rev'g 54 App. Div. 180.)

§ 57. Independent nominations.—Nominations made as provided by this section shall be known as independent nominations, and the certificate whereby such nominations are made shall be known as an independent certificate of nomination. Independent nominations of candidates for public office to be voted for by all the electors of the state can only be made by six thousand or more voters of the state; provided, however, that in making up such number at least fifty electors in each county of the state (the counties of Fulton and Hamilton to be considered as one county) shall subscribe to the certificate provided for in this section. Independent nominations of candidates for municipal offices to be voted for by all the electors of a municipality can only be made if in a city of the first class by two thousand electors of such city; if in cities of the second class by one thousand electors of such city, and in other cities by five hundred electors thereof. Independent nominations of candidates for a county office in a county in which there is a city of the first class can only be made by two thousand electors of such county. Independent nominations of candidates for public office other than municipal offices to be voted for in a district less than

the whole state, but greater than a town or ward of a city, can only be made by one thousand electors or more of the district, except that five hundred voters or more of an assembly or school commissioner district, may make such nomination for member of assembly or school commissioner to be voted for in such district. Independent nominations of candidates for public office to be voted for only by the electors of a town, or a ward of a city, or a village, can only be made by one hundred electors or more of such town, ward or village, except that when such town, ward or village constitutes an assembly or school commissioner district, five hundred or more electors shall be required as above to make such nomination for member of assembly or school commissioner. Independent nominations shall be made by a certificate subscribed by such electors, each of whom shall add to his signature his place of residence and make oath that he is an elector and has truly stated his residence. The making of the said oath shall be proved by the certificate of the notary or other officer before whom the said oath is taken, and it shall be unnecessary for an elector who has subscribed a certificate of nomination as herein provided, to sign any affidavit as to the matter to which he has made oath as aforesaid. The certificate hereinbefore provided for of the notary or other officer shall be in the following form substantially:

State of New York, }
County of..... } ss:

On the day of in the year
before me personally came (here shall be inserted the names of each and every elector appearing and making oath before the said officer), each of whom was to me personally known and known by me to be the elector whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing electors being by me duly and severally sworn did make oath that he is an elector and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons nominated for public office in the foregoing certificate of nomination.

(Signature and official title).

The certificate of nomination and each separate paper thereof, if there be more than one such paper, shall contain the following declaration which shall be subscribed to by the signers thereof: We the undersigned duly qualified electors of the district for which the nomination for public office is hereby made under the

provisions of section fifty-seven of the election law do hereby declare that it is our intention to support at the polls the candidacy of the person or persons herein nominated for public office. The certificate shall also contain the titles of the offices to be filled, the name and residence of each candidate nominated, and if in a city, the street number of such residence and his place of business, if any; and shall designate in not more than five words the political or other name which the signers shall select, which name shall not include the name of any organized political party. All independent certificates of nomination shall, upon their face, designate and select a device or emblem to represent and distinguish the candidate of the independent body making such nominations, as provided, by the fifty-sixth section of this act. A certificate may designate upon its face, one or more persons as a committee to represent the signers thereof, for the purposes specified by section sixty-six of this act. The signatures to the certificate of nomination need not all be appended to one paper. No person shall join in nominating more candidates for any one office than there are persons to be elected thereto, and no certificate shall contain the names of more candidates for any office than there are persons to be elected to such office. (*Thus amended by chap. 654, L. 1901.*)

Five hundred electors are requisite to a certificate for the independent nomination of an alderman in the city of New York. (*Supm. Ct., Sp. T. Matter of Fagan, 21 Misc. 403; 47 N. Y. Supp. 288.*)

Independent nomination of alderman.—Under this section an independent nomination may be made, of a candidate for alderman, to be voted for by the electors of a district which extends only to a part of the ward. (*People ex rel. Behrman v. Voorhis, 168 N. Y. 367; 61 N. E. Rep. 283, aff'd 65 App. Div. 11; 72 N. Y. Supp. 293.*)

§ 58. Places of filing certificates of nomination.—Certificates of nomination of candidates for office to be filled by the electors of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state, except that each certificate of nomination of a candidate for member of assembly for the assembly district composing the counties of Fulton and Hamilton, shall be filed in the office of the county clerk of Fulton county, and a copy thereof certified by the county clerk of Fulton county, shall be filed in the office of the county clerk of Hamilton county, so long as the said counties constitute one assembly district, and except that certificates of nomination of candidates for offices to be filled only by the electors or a portion of the electors of the city of New York shall be filed with the board of elections of the city of New York. Certificates of nominations of candidates for offices to be filled only by the votes of electors, part of whom are of New York city and part of whom are of a county not wholly within the city of New York shall be filed with the clerk of such county and in the office of the board of elections of

by 100 Ed
or more.

said city. Certificates of nomination of candidates for offices of any other city to be elected at the same time at which a general election is held shall be filed with the clerk of the county in which such city is located. Certificates of nomination of candidates for offices of any other city, or for officers of a village or town to be elected at a different time from a general election, shall be filed with the clerk of such city, village or town, respectively. In towns in which town meetings are held at the time of general elections, certificates of nomination of candidates for town offices shall be in duplicate, one of which shall be filed with the town clerk of the town in which such officers are to be voted for, and the other with the clerk of the county in which such town is located. All other certificates of nomination shall be filed with the clerk of the county in which the candidates so nominated are to be voted for. All certificates and corrected certificates of nomination, all objections to such certificates and all declination of nominations are hereby declared to be public records; and it shall be the duty of every officer or board to exhibit without delay, every such paper or papers to any person who shall request to see the same. It shall also be the duty of each such officer or board to keep a book which shall be open to public inspection, in which shall be correctly recorded the names of all candidates nominated by certificates filed in the office of such officer or board, or certified thereto, the title of the office for which any such nomination is made, the political or other name and emblem of the political party or independent body making such nomination; and in which shall also be stated all declinations of nominations or objections to nominations, and the time of filing each of the said papers. (*Thus amended by chap. 95, L. 1901, chap. 241, L. 1902, and chap. 405, L. 1902.*)

Chap. 241, L. 1902 is superseded by chap. 405, L. 1902. The former act provided that certificates of nomination need not be filed with town clerks in those counties having special laws for the filing of certificates of nominations with the county clerk. These special laws provide for holding town meetings in the fall in certain counties, and the latter act would therefore seem to accomplish the same purpose as the act which it supersedes.

§ 59. The times of filing certificates of nomination.—The different certificates of nomination shall be filed within the following periods before the election for which the nominations are made, to wit: Those required to be filed with the secretary of state, if party nominations, at least thirty and not more than forty days; if independent nominations, at least twenty-five days and not more than forty days; those required to be filed with a county clerk, or the board of elections of the city of New York, or with the city clerk of any other city, if party nominations, at least twenty-five and not more than thirty-five days; if independent nominations, at least twenty, and not more than thirty-five days; those required to be filed with a town or village clerk, if party nominations, at least fifteen and not more than twenty days; if independent nominations, at least ten and not more than twenty days. Except that in towns where town

meetings are held at the time of general elections, certificates of nomination for town offices, shall be filed with the town and county clerks, within the time required by this section for the filing of certificates of nomination with the county clerk. In case of a special election ordered by the governor under the provisions of section four of the election law, the certificates of nominations for the office or offices to be filled at such special election shall be filed with the proper officer or boards not less than fifteen days before such special election. (*Thus amended by chap. 95, L. 1901, and chap. 405, L. 1902.*)

The statutory provision in respect to the time when the certificates of nomination must be filed is *mandatory*, and must be complied with, and after the time has passed a county clerk has no right to receive and file certificates of nominations. (*Matter of Cuddeback*, 3 App. Div. 103.)

Filing of certificate with county clerk after business hours.—A candidate is entitled to file his certificate of nomination at any hour of the day before midnight on the last day for filing such a certificate, by delivery thereof to the county clerk, and is not required to file the same within the hours provided by statute for keeping the clerk's office open for the transaction of public business. (*Matter of Norton*, 34 App. Div. 79, rev'g 53 N. Y. Supp. 924.)

Court has no power to order certificate filed nunc pro tunc.—A certificate of independent nomination presented for filing one week after the last day prescribed by law. Held could not be ordered filed *nunc pro tunc*. (*Matter of McDonald*, 25 Misc. 80.)

§ 60. Certification of nomination by secretary of state.—The secretary of state shall, fourteen days before the election, certify to the county clerk of each county, except those counties the whole of which are within the city of New York, and to the board of elections of the city of New York, the name, residence and place of business, if any, of each candidate nominated in any certificate so filed for whom the electors of any such county or said city, respectively, may vote, the title of the office for which he is nominated, the party or other political name specified in such certificate, and the emblem or device chosen to represent and distinguish the candidates of the political party or independent body making such nominations. (*Thus amended by chap. 95, L. 1901.*)

§ 61. Publication of nominations.—At least six days before an election to fill any public office the county clerk of each county, except those counties which are wholly within the city of New York, shall cause to be published in not less than two or more than four newspapers within such county and in any county having one hundred thousand or more inhabitants, adjoining a city having a population of one million or more, in not less than six nor more than ten newspapers, a list of all nominations of candidates for offices to be filled at such election, certified to such clerk by the secretary of state, or filed in the office of such clerk. The board of elections of the city of New York shall, within the same time before an election to fill any public office, cause to be published in two newspapers published in each borough within such city a list of the nominations of candidates for offices to be voted

for at such election in such boroughs respectively, which were certified to such board by the secretary of state, or filed in the office of such board, and in the borough of Brooklyn the board of elections shall cause such publication to be made in the newspapers designated as corporation newspapers of said borough. Such publication shall contain the name and residence, and if in a city, the street number of the residence and place of business, if any, and the party or other designation of each candidate, and a fac simile of the emblems or devices selected and designated as prescribed by the fifty-sixth and fifty-seventh sections of this act, to represent and distinguish the candidates of the several political parties or independent bodies. The city clerk of each city, except New York, and the board named in such cities, shall at least six days before an election of city officers thereof, held at a different time from a general election, cause like publication to be made as to candidates for offices to be filled at such city election in a like number of newspapers published in such city. One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor, cast the largest number of votes in the state for such office; and another of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding election for governor cast the next largest number of votes in the state for such office. The clerk or board, in selecting the papers for such publications, shall select those which, according to the best information he can obtain, have a large circulation within such county or city. In making additional publications, the clerk or board shall keep in view the object of giving information, so far as possible, to the voters of all political parties. The clerk or board shall make such publication twice in each newspaper so selected in a county or city in which daily newspapers are published; but if there be no daily newspaper published within the county, one publication only shall be made in each of such newspapers. Should the county clerk find it impracticable to make the publication six days before election day in counties where no daily newspaper is printed, he shall make the same at the earliest possible day thereafter, and before the election. (*Thus amended by chap. 95, L. 1901.*)

The designation of newspapers to publish lists of nominations is reviewable by a writ of *certiorari*, and such proceeding may be instituted by the proprietor of a newspaper which has not been designated. The one or ones making such designation cannot act arbitrarily, but must show good faith in carefully considering all evidence presented as to circulation. (*People ex rel. P. P. Co. v. Martin et al.*, 142 N. Y. 228.)

Expense of publication.—The common council for a city may contract to pay more for the publication of election notices than the rate prescribed by section 3317 of the Code of Civil Procedure for the publication of legal notices. (*Mack v. City of Buffalo*, 32 Misc. 330.)

It should be noted that the present law does not require that the papers selected shall have the *largest*, but only a *large* circulation within the city or county.

§ 62. Lists for town clerks and aldermen.—The county clerk of each county, except those counties which are wholly within the city of New York, shall at least six days before election day, send to the town clerk of each town, and to an alderman of each ward in any city in the county, at least five and not more than ten printed lists for each election district in such town or ward, containing the name and residence, and if in a city, the street number of residence, and place of business, if any, and the party or other designation, and also a fac simile of the emblem or device of each political party, or independent body nominating candidates to be voted for by the electors of the respective towns and wards. Such lists shall, at least three days before the day of election be conspicuously posted by such town clerk or alderman in one or more public places in each election district of such town or ward, one of which shall be at each polling place. (*Thus amended by chap. 379, L. 1897.*)

§ 63. Posting town and village nominations.—Each town and village clerk shall cause at least ten copies of a like list of all nominations to office filed with him to be conspicuously posted in ten public places in the town or village, at least one day before the town meeting or village election, one of which copies shall be so posted at each polling place of such town meeting or village election.

§ 64. Declination of nomination.—The name of a person nominated for any office shall not be printed on the official ballot if he notifies the officer with whom the original certificate of his nomination is filed, in a writing signed by him and duly acknowledged, that he declines the nomination, or if nominated by more than one political party, or independent body, the name of a person so nominated shall not be printed on the ticket of a party or independent body whose nomination he shall in like manner decline. If the declination be of a party nomination filed with the secretary of state, such notification shall be given at least twenty-five days, and if an independent nomination, at least twenty days before the election. If the declination be of a party nomination filed with a county clerk or the board of elections of the city of New York, or with the city clerk of any other city, such notification shall be given at least twenty days, and if of an independent nom-

ination at least eighteen days before the election. If the declination be of a party nomination filed with a town or village clerk, such notification shall be given at least ten days, and if of an independent nomination, at least seven days before the election. Except that a declination of nomination to a town office in towns where town meetings are held at the time of general elections must be filed in the office of the county clerk, within the time required by this section for filing the declination of nomination to a county office, and the county clerk shall forthwith notify the town clerk in writing of such declination. The officer to whom such notification is given, shall forthwith inform by mail or otherwise, the committee, if any, appointed on the face of such certificate as permitted by sections fifty-six and fifty-seven of this act, and otherwise one or more persons whose names are attached to such certificate, that the nomination conferred by such certificate has been declined, and if such declination be filed with the secretary of state, such officer shall also give immediate notice by mail or otherwise, that such nomination has been declined, to the several county clerks or other officers, authorized by law to prepare official ballots for election districts affected by such declination. (*Thus amended by chap. 95, L. 1901, and chap. 405, L. 1902.*)

§ 65. Objections to certificates of nomination.—A written objection to any certificate of nomination may be filed with the officer with whom the original certificate of nomination is filed within three days after the filing of such certificate. If such objection be filed, notice thereof shall be given forthwith by mail to the committee, if any, appointed on the face of such certificate for the purposes specified in section sixty-six of this act, and also to each candidate placed in nomination by such certificate. The questions raised by such written objection shall be heard and determined as prescribed in section fifty-six of this act.

The validity of the objections to a certificate of nomination is primarily heard, investigated and decided by the officer with whom such certificate is filed, and unless an order be made by a court of competent jurisdiction his decision is final. (*Matter of Woodworth, 64 Hun, 522.*)

When no objection to a certificate of nomination is filed within the time prescribed, the officer with whom the certificate is filed is bound to recognize the certificate as valid, and the persons named therein as the regular nominees. (*Matter of Cowie, 33 N. Y. St. Repr. 710.*)

§ 66. Filling vacancies in nominations, and correction of certificates.—Subdivision 1. If a nomination is duly declined, or a candidate regularly nominated dies before election day, or is found to be disqualified to hold the office for which he is nomi-

nated, or if any certificate of nomination is found to be defective but not wholly void, the committee appointed on the face of such certificate of nomination, as permitted by sections fifty-six and fifty-seven of this act, may make a new nomination to fill the vacancy so created, or may supply such defect, as the case may be, by making and filing with the proper officer a certificate setting forth the cause of the vacancy or the nature of the defect, the name of the new candidate, the title of the office for which he is nominated, the name of the original candidate, the name of the political party or other nominating body which was inscribed on the original certificate, and such further information as is required to be given by an original certificate of nomination; except that where a certificate is filed pursuant to this section to fill a vacancy it shall not be lawful to select a new emblem or device, but the emblem or device chosen to represent or distinguish the candidate nominated by the original certificate shall be used to represent and distinguish the candidate nominated, as provided by this section. The certificate so made shall be subscribed and acknowledged by a majority of the members of the committee, and the members of the committee subscribing the same shall make oath before the officer or officers before whom they shall severally acknowledge the execution of the said certificate that the matters therein stated are true to the best of their information and belief. Except in a case as provided for in subdivision two of this section, the said certificate shall be filed in the office in which the original certificate was filed, at least six days before the election, if filed in the office of a town or village clerk; at least fifteen days before the election, if filed with the county clerk or the board of elections of the city of New York, or the city clerk of any other city; and at least fifteen days if filed with the secretary of state, and upon being so filed shall have the same force and effect as an original-certificate of nomination. When such certificate is filed with the secretary of state, he shall, in certifying the nomination to the various county clerks and other officers, insert the name of the person who has been nominated as prescribed by this section, instead of that of the candidate nominated by the original certificate, or, if he has already sent forward his certificate, he shall forthwith certify to the proper clerks and other officers, the name of the person nominated as prescribed by this section, and

such other facts as are required to be stated in a certificate filed pursuant to this section. When no nomination shall have been originally made by a political party, or by an independent body for an office, or where a vacancy shall exist, it shall not be lawful for any committee of such party or independent body authorized to make nominations, or to fill vacancies, to nominate or substitute the name of a candidate of another party or independent body for such office; it being the intention of this act that when a candidate of one party is nominated and placed on the ticket of another party or independent body, such nomination must be made at the time and in the manner provided for making original nominations by such party or independent body. (*Thus amended by chap. 95, L. 1901.*)

Subdivision 2. In case of the death of a candidate after the official ballots have been printed, and before election day, the vacancy may be filled by filing the proper certificate of nomination of a candidate to fill such vacancy, with the officer or board with whom the original certificate was filed, and it then shall be the duty of the officer or board furnishing the official ballots to prepare and furnish to the inspectors of election in the election districts affected adhesive pasters containing the name of the candidate nominated to fill the vacancy, and the title of the office for which he was nominated. The pasters shall be of plain white paper, printed in plain black ink and in the same kind of type used in printing the titles of the offices and the names of the candidates upon the official ballots, and shall be of a size as large and no larger than the space occupied upon the official ballot by the title of the office and the name of the candidate in whose place the candidate named upon the paster has been nominated. If the candidate be one of a group of candidates, such official paster shall contain the name of the candidate but not the title of the office. Whenever such pasters are provided, the officer or board furnishing them shall certify to the inspectors of election in the election districts affected by the vacancy, the name of the original candidate, the name of the new nominee, the title of the office for which the nomination is made, and the name of the political party or independent body making the nomination, and shall state the number of pasters furnished, which number shall be equal to the number of official ballots furnished for such district. Upon the

delivery of said pasters, the inspectors of election shall sign a receipt for the same, which receipt shall be retained by the officer or board furnishing the pasters, and shall be part of the record of his or their office. The inspectors shall deliver the pasters to the ballot clerks, who are required to affix one of such pasters in the proper place and in a proper manner upon each official ballot before said ballot shall be delivered to a voter. When so affixed to the official ballot, the pasters shall be considered as being part of the official ballot. The ballot clerks shall include in their statement of ballots a statement showing the number of pasters received by them, the number of pasters affixed to official ballots and the number of unused pasters returned by them, the unused pasters to be enclosed in the package of ballots not delivered to voters. The use of any paster upon the official ballot otherwise than as herein provided is hereby declared a felony, punishable by imprisonment in a state prison for not less than one nor more than five years.

Nominations by committee. Where a vacancy was left by a convention of the Prohibition party which was subsequently filled by the duly authorized committee of such party by nominating for office the candidate nominated by the Democratic party, the secretary of state cannot refuse to file, as invalid, a certificate of such nomination. (*Matter of Gillespie v. McDonough*, 39 Misc. 147.)

[For Form of Certificate, see Forms at end of this article.]

PROVISIONS AFFECTING CANDIDATES.

Candidate's statement of election expenses.—"Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of the secretary of state. The candidates for town, village and city offices, excepting in the city of New York, shall file their statements in the office of the town, village or city clerk respectively, and in the cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office." (§ 41x, *Penal Code*.)

[For Form for Statement of Expenses, see Form at end of this article.]

Soliciting candidates to purchase tickets, etc., a misdemeanor; but this section shall not apply to a request for a contribution of money by an authorized representative of the political party, organization or association to which such candidate belongs." (§ 412, *Penal Code*. Added by chap. 155, *Laws* 1895.)

Soliciting candidate for money, etc., for newspaper.—Any person who solicits from a candidate for an elective office money or other property as a consideration for a newspaper or other publication supporting any candidate for an elective office, is guilty of a misdemeanor. (*See* § 41bb, *Penal Code*.)

Soliciting for support of newspapers, etc.—Any person who solicits from a candidate for an elective office money or other property as a consideration for a newspaper or other publication supporting any candidate for an elective office, is guilty of a misdemeanor. (*See* § 41bb, *Penal Code*.)

[For additional provisions see "Penal Code." post.]

FORMS FOR ELECTION LAW, ARTICLE 3.

FORM No. 17.

(For place and time of filing this certificate, see pages 68, 69.)

Party certificate of nomination by a state convention.

To the Secretary of State:

We certify that at a convention of delegates representing the party, held at _____ on the _____ day of _____, 189____, a political party which, at the last preceding general election, at which a governor was elected, cast ten thousand votes in the state for such officer, the following named persons were placed in nomination for offices to be filled at the next ensuing general election:

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence of candidate.†	Place of business.†
.....
.....
.....

We also certify that such convention selected as an emblem or device to designate and distinguish the candidate of the _____ party in all districts of the state, a _____ which emblem or device is shown by the following representation. (Insert fac simile.)

We also further certify that such convention appointed the following named person (or persons) _____ a committee for the purposes specified in section sixty-six of the election law.

(Signed) _____

Presiding officer of Convention.

(Residence, city or town, street and number, if any.)

Attest: _____

Secretary of Convention.

(Residence, city or town, street and number, if any.)

STATE OF NEW YORK, } ss.:
COUNTY OF _____,

_____ being severally sworn, each for himself, says that the said _____ was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said _____ was the secretary of such convention, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }
me, this _____ day of _____ 189____. }

(Notary Public.)

[To be filed with the secretary of state at least thirty and not more than forty days before election.]

* To be designated in not more than five words.

† If in a city, the street number of his residence and place of business.

FORM No. 18.

(For place and time of filing this certificate, see pages 68, 69.)

Party certificate of nomination by a congressional, senatorial or judicial district convention.*To the Secretary of State :*

We certify that at a convention of delegates representing the _____ party (a political party which, at the last preceding general election at which a governor was elected, cast ten thousand votes in the state for such officer), held at _____ on the _____ day of _____, 189 _____, in and for the _____ district, the following named persons were placed in nomination for offices to be filled at the next ensuing general election :

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence of candidate.†	Place of business.†
.....
.....
.....

We also certify that such convention appointed the following named person (or persons) _____ a committee for the purposes specified in section sixty-six of the election law.

(Signed) _____

Presiding officer of Convention.

(Residence, city or town, street and number, if any.) _____

Secretary of Convention.

(Residence, city or town, street and number, if any.) _____

STATE OF NEW YORK, } ss. :
COUNTY OF _____,

and _____, being severally sworn, each for himself, says that the said _____ was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said _____ was the secretary of such convention, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }
me, this _____ day of _____, 189 _____, }

(Notary Public.) _____

[To be filed with the secretary of state at least thirty and not more than forty days before election.]

* To be designated in not more than five words.

† If in a city, the street and number of his residence and place of business.

FORM No. 19.

(For place and time of filing this certificate, see pages 68, 69.)

Party certificate of nomination by a convention for a candidate voted for by the voters of only one county or a portion of a county.

To the County Clerk of _____ County, State of New York :

We certify that at a convention of delegates representing the party, held at _____ on the _____ day of _____, 189____, a political party which, at the last preceding general election at which a governor was elected, cast ten thousand votes in the state for such officers, the following named persons were placed in nomination for offices to be filled at the next ensuing election in the _____ (county or section of county):

Title of office to be filled.	Name of the candidate.	Name of party.*	Place of residence of candidate.†	Place of business.†
.....
.....
.....

We also certify that the following named persons were appointed by said convention a committee for the purposes specified in section sixty-six of the election law.

(Name) _____

Presiding officer of Convention.

(Residence, city or town, street and number, if any.) _____

Secretary of Convention.

(Residence, city or town, street and number, if any.) _____

STATE OF NEW YORK, } ss.:
COUNTY OF _____,

and _____, being severally sworn, each for himself, says that the said _____ was the presiding officer of the convention of delegates mentioned and described in the foregoing certificate, and that the said _____ was the secretary of such convention, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }
me, this _____ day of _____, 189____.

(Notary Public.)

* To be designated in not more than five words.
† If in a city, the street and number of his residence and place of business.

FORM No. 20.

(For place and time of filing this certificate, see pages 68, 69.)

Party certificate of nomination for a ward, town or village office.*To the (Town or City) Clerk of :*

We certify that at a primary meeting of the voters of the _____ party, held at _____ on the _____ day of _____, 189____, a political party which, at the last preceding general election at which a governor was elected, cast ten thousand votes in the state for such officer, the following named persons were placed in nomination for offices to be filled at the next ensuing election in the _____.

(Village, ward or town.)

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence of candidate.†	Place of business.†
.....
.....
.....

We also certify that the following named person (or persons) were appointed by said primary a committee for the purposes specified in section sixty-six of the election law.

Presiding Officer.

(Residence and address.)

Secretary.

(Residence and address.)

STATE OF NEW YORK, } ss.:
COUNTY OF _____,

and _____, being severally sworn, each for himself, says that the said _____ was the presiding officer of the primary meeting mentioned and described in the foregoing certificate, and that the said _____ was the secretary of said primary meeting, and that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }
me, this _____ day of _____, 189____.

Notary Public.

*To be designated in not more than five words.

†If in a city, the street and number of his residence and place of business.

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FORM No. 31.

(For place and time of filing this certificate, see pages 68, 69.)

Party certificate of nomination by a duly authorized committee of convention or primary.

To the

(Insert name of officer with whom certificate is to be filed.)

We certify that at a meeting of the duly authorized committee of the (state or district) convention (or primary) representing the party, held at , on the day of , 189 , a political party which, at the last preceding general election, at which a governor was elected, cast ten thousand votes in the state for such officer, said committee, acting under authority of the following resolution, passed , 189 , at a convention of delegates :

(Here insert resolution passed by convention.)

placed in nomination for the offices to be filled at the next ensuing election the following named persons :

Title of office to be filled.	Name of the candidate.	Name of the party.*	Place of residence.†	Place of business.†
.....
.....
.....

(Signed)

A majority of the members of the committee.

(The signers of the foregoing certificate are required to add to their signatures their respective places of residence.)

STATE OF NEW YORK, } ss.:
COUNTY OF

and , being severally sworn, each for himself says, that he is a member of the committee representing the party, and that he and the other signers to the foregoing certificate constitute a majority of such committee, and, further, that said certificate and the statements therein contained are true, to the best of his information and belief.

Severally subscribed and sworn to before }
me, this day of , 189 . }

(Notary Public.)

* To be designated in not more than five words.

† If in a city, the street and number of residence and place of business.

FORM No. 22

For use and care of filling the certificate on page 21, 22

Independent certificate of nomination.

To be

Filled out by three or more voters of the district.

We the undersigned duly qualified voters of the State of New York, in accordance with the provisions of section 5 of the election law, hereby make the following nomination for officers to be filled at the next election in the

State district of election law.

Name of officer or member of the board to be filled.	Political party or other name which appears on ballot.	Residence of the candidate.	Place of business.

We hereby select as an emblem or device to represent and distinguish the candidates hereby nominated by us a _____ which emblem or device is shown by the following representation. Insert for sample.

And we do designate and appoint

(Name, residence and place of business.)

to represent the voters of this certificate for the purposes set forth in section sixty-six of the election law.

We the undersigned duly qualified voters of the district for which the nomination for public office is hereby made under the provisions of section fifty-seven of the election law do hereby declare that it is our intention to support at the polls the candidacy of the person or persons herein nominated for public office.

Signatures.	Residence, town or city, street and street number, if any.

NOTE.—It is unnecessary for the signers to sign any affidavit. The making of the oath is to be proved by the officers before whom the oath is taken. The signatures need not all be appended to one paper.

Certificate of notary or other officer before whom oath is taken to be annexed to the certificate of nomination.

STATE OF NEW YORK,) ss.:
COUNTY OF _____

On the _____ day of _____ in the year _____, before me personally came (there shall be inserted the names of each and every elector appearing and making oath before the said office), each of whom

* To be designated in not more than five words and not to include names of any organized political party.

† If in a city, also the street and number of residence and place of business.

‡ Certificates of nominations for officers to be voted for by all the electors of this state should contain the names of the county in addition to place of residence.

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was to me personally known and known by me to be the elector whose name and place of residence is subscribed by him to the foregoing certificate and each of the foregoing electors being by me duly and severally sworn did make oath that he is an elector and has truly stated his residence, and that it is his intention to support at the polls the candidacy of the person or persons nominated for public office in the foregoing certificate of nomination.

(Signature and official title.)

FORM No. 23.

List of nominations to be published by county clerk.

To the Electors of (county):

The following is a true and correct list of all nominations of candidates for offices to be filled at the election to be held , 189 , certified to me pursuant to the provisions of chapter 909 of the Laws of 1896:

Name of candidates.	Residence.*	Place of business.*	Office to be filled.	Party or other designation of candidate.	Fac simile of emblem or device selected to represent and distinguish candidates.
.....	(Here insert fac similes opposite candidates of each party.)
.....	
.....	

(Signed) _____,
Clerk of County.

FORM No. 24.

List of nominations to be posted by town or village clerk.

To the Electors of (town or village of):

The following is a true and correct list of all nominations of candidates for offices to be filled at the election to be held at , 189 , filed with me pursuant to the provisions of chapter 909 of 1896, and amendments thereto:

Name of candidates.	Residence.	Office to be filled.	Party or other designation of candidates.	Fac simile of emblems or devices to represent and distinguish candidates.
.....	(Here insert fac similes opposite candidates of each party.)
.....	
.....	

Clerk.

* If in a city, the street number of residence and place of business.

FORM No. 25.

Printed list to be sent by county clerk to each town clerk or alderman in county or city.

(Same to be posted by town clerk or alderman in election districts.)

To the (Town Clerk or Alderman) of (Town of or Ward of):

Please take notice that the following named persons have been nominated as candidates for office, to be voted for at the election to be held in your (town or ward) on the day of , 189 , as follows:

Name of candidate.	Place of residence.*	Place of business.*	Office to be filled.	Party or other designation of candidate.	Fac simile of emblems or devices to represent and distinguish candidates.
.....
.....
.....

(Signed) _____,
Clerk of County.

FORM No. 26.**Declination of nomination.**

To the Secretary of State (or other officer):

SIR—Please take notice that I decline the nomination for the office of _____, tendered to me by the (convention, primary or voters) of the party, filed in your office.

Dated _____

Yours, _____

STATE OF NEW YORK, } ss.:
COUNTY OF _____,

On this day of _____, 189 , before me personally came _____, to me known to be the person described in, and who executed the foregoing declination, and he acknowledged to me that he executed the same for the purposes therein mentioned.

Notary Public or Justice of the Peace.

* If in a city, the street number of residence and place of business.

FORM No. 27.

Filling vacancies in nominations by duly authorized committees.

To the (insert officer with whom original certificate of nomination is filed):

Whereas,

(Here set forth cause of vacancy or nature of defect of certificate of nomination.)

Now, therefore, I (or we) _____, the duly authorized committee for the purposes specified in section sixty-six of the election law, pursuant to the provisions of said section, do hereby certify that I (or we) have nominated the following named person (or persons) to fill the vacancy (or vacancies) caused by

Name of new candidate.	Place of residence.	Place of business.	Title of office for which nominated.	Name of original candidate.	Name of political party or other nominating body.
.....
.....
.....

(Signed)

A majority of the committee.

(Signers should state residence, city or town, street and number, if any.)

Acknowledgment and affidavit to be annexed to certificate.

STATE OF NEW YORK, } ss.:
COUNTY OF _____,

On the day and date below mentioned _____ before me personally appeared _____ to me known and known to me to be the persons described and who executed the foregoing certificate, and severally acknowledged the execution thereof for the purposes therein set forth, and each of said persons being by me severally duly sworn depose and say that the matters therein stated are true to the best of his information and belief.

(Signed)

Acknowledged, subscribed and sworn to before }
me, this _____ day of _____ 189 . }

Notary Public.

FORM No. 28.**Candidate's statement of election expenses.**

I, _____, a candidate voted for at the
 election held in the state of New York (or
 county of _____) on the _____ day of _____, 189 , for
 the office of _____ in said state (or county), do hereby make and
 file the following itemized statement, showing in detail all the moneys
 contributed or expended by me directly or indirectly by myself or through
 any other person in aid of my election.

(Here insert items.)

STATE OF NEW YORK, }
 COUNTY OF _____, } ss.:
 Town of _____, }

_____, being duly sworn, deposes and says
 that he was a candidate for the office of _____ and voted for
 as such at the _____ election held in the said state of New York
 on the _____ of _____, 189 ; that the statement to which
 this affidavit is attached is in all respects true; and that the same is a
 full and detailed statement of all moneys so contributed or expended by
 him, directly or indirectly, by himself or through any other person in
 aid of his election.

Sworn to before me this _____ }
 of _____, 189 . }

Notary Public.

ARTICLE IV.**Official and sample ballots, instruction cards and stationery.****SECTION 80. Official ballots for elections.**

- 81. Form of general ballot.
- 82. Form of ballot for questions submitted.
- 83. Sample ballots, instruction cards and stationery.
- 84. Blank forms for election officers.
- 85. Number of official ballots.
- 86. Officers providing ballots and stationery.
- 87. Distribution of ballots and stationery.
- 88. Errors and omissions in ballots.
- 89. Unofficial ballots.

§ 80. **Official ballots for elections.**—Official ballots shall be provided at public expense at each polling place for every election at which public officers are to be elected directly by the people, except an election of school district officers or school officers of a city or village at which no other public officer is to be elected, and except an election of officers of a fire district outside of cities and incorporated villages, at which excepted elections any form of ballots which may be adopted and used by the meeting at which such election shall be had shall be legal. (*Thus amended by chap. 609, L. 1897.*)

§ 81. **Form of general ballot.**—There shall be provided at each polling place at each election at which public officers are voted for, but one form of ballot for all the candidates for public office, and every ballot shall contain the names of all the candidates whose nominations for any office specified on the ballot have been duly made and not withdrawn, as provided in this act, together with the title of the office arranged in tickets under the titles of the respective political parties or independent bodies, as certified in the certificates of nomination. All ballots shall be printed in black ink on clear white, book paper, free from ground wood, five hundred sheets of which, twenty-five by thirty-eight inches in size, shall weigh sixty pounds, and which shall test for that size and weight at least twenty points on a Morrison tester. Every such ballot printed in accordance with the provisions of this act, shall contain a party device for each political party represented on the ticket in accordance with the provisions of section

fifty-six of this act. The arrangement of the ballot shall, in general, conform as nearly as practicable to the plan hereinafter given. The list of candidates of the several parties shall be printed in parallel columns, each column to be headed by the chosen device of such party, and the party name or other designation in such order as the secretary of state may direct, precedence, however, being given to the party which polled the highest number of votes for governor at the last preceding general election for such officer, and so on. The number of such columns shall exceed by one the number of separate tickets of candidates to be voted for at the polling place for which the ballot is provided, except as otherwise provided in this section. The party name shall be printed in display, the name or designation of the office in brevier lower case, and the name of the candidate therefor in brevier capital type. The title of the office, together with the name of the candidate therefor shall be printed in a space one-half inch in depth, and at least two inches in width defined by light horizontal ruled lines, with a blank space on the left thereof, one-fourth of an inch wide, inclosed by heavier dark lines, which space (called the voting space) shall be of the same depth as the space containing the title of the office and the name of the candidate; provided, however, that when two or more persons are to be voted for, for the same office, for the same term, on the same party ticket, as for instance, presidential electors, the title of the office shall be printed in the first space only, which space shall be half an inch in depth and the several spaces in which only such candidates' names are printed, and the voting spaces to the left thereof, shall each be one-fourth of an inch in depth between the horizontal ruled lines. On the right of each ballot shall be a column in which shall be printed only the titles of the offices for which candidates may be voted for by the electors at the polling place for which the ballot is printed. Such column is designated as the "blank column," and in such column the voting spaces shall be omitted, but in all other respects such blank column shall be a duplicate of the political party columns upon such ballot. In the space of such column above the heavy ruled line shall be printed in great primer Roman condensed capitals the words "blank column," and below such words shall be printed in brevier capital type the following: "The elector may write in the column below,

under the title of the office, the name of any person whose name is not printed upon the ballot, for whom he desires to vote." At elections at which presidential electors are to be voted for, the names of the candidates for president and vice-president shall be placed on the ticket immediately below the name of the party making the nominations, and above the heavy ruled line preceding the names of the presidential electors, and shall be printed in type known as great primer Roman condensed capitals. The heading of each party ticket, including the name of the party, the device above, and the circle between the device and such name, shall be separated from the rest of the ticket by a heavy printed line, and the circle above the name of the party shall be defined by heavier lines than the lines defining the blank spaces before the names of candidates, and such circle shall be surrounded by the following, printed in heavy faced nonpareil type: "For a straight ticket, mark within this circle." Provided, however, that in the case of nominations provided for in section fifty-seven of this act, designated as "independent nominations," the ballot shall be so arranged that at the right of the last column for nominations designated in section fifty-six as "party nominations," the several tickets of the names of the candidates independently nominated shall be printed in one or more columns according to the space required, having above each of the tickets the political or other name selected to designate such independent nominations, and the circle and also the device or emblem to represent and distinguish the candidates of the several independent bodies making such nominations. The independent tickets occupying the same column shall be separated from each other by a solid black line one-eighth of an inch wide. At the top of the column, and above the first emblem in each of such columns for independent nominations, shall be printed in type known as great primer Roman condensed capitals the words "independent nominations." Each column upon the ballot shall be bordered on either side by a broad solid printed line one-eighth of an inch wide and the edge of the ballot on either side shall be trimmed off up to the border or solid line described. The ballots shall be so printed as to give each elector a clear opportunity to designate by a cross X mark in a large blank circle three-quarters of an inch in diameter, below the device, and above the name of the party at the head of the ticket

or list of candidates, his choice of a party ticket and desire to vote for each and every candidate thereon, and by a cross X mark in a blank inclosed space, heretofore designated as the voting space, on the left of and before the name of each candidate, his choice of particular candidates. The ballot shall be printed on the same leaf with a stub, and separated therefrom by a perforated line. The part above the perforated line designated as the stub shall extend the entire width of the ballot, and shall be of sufficient depth to allow the instructions to voters to be printed thereon, such depth to be not less than two inches from the perforated line to the top thereof. Upon the face of each stub shall be printed in type known as brevier capitals the following:

"This ballot should be marked in one of two ways with a pencil having black lead. To vote a straight ticket, make a cross X mark within the circle above one of the party columns. To vote a split ticket, that is, for candidates of different parties, the voter should make a cross X mark before the name of each candidate for whom he votes. If the ticket marked in the circle for a straight ticket does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted, by making a cross X mark before the names of candidates for such offices on another ticket, or, by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank column. Any other mark than the cross X mark used for the purpose of voting or any erasure made on this ballot, makes it void, and no vote can be counted hereon. If you tear, or deface, or wrongly mark this ballot, return it and obtain another."

On the back of the ballot, below the stub, and immediately at the left of the center of the ballot, shall be printed in great primèr Roman condensed capitals the words: "Official ballot for," and after the word "for" shall follow the designation of the polling place for which the ballot is prepared, the date of the election, and a fac simile of the signature of the officer who has caused the ballots to be printed. Ballots for town meetings not held at the same time with a general election shall be indorsed "Town," and for village elections, "Village." On the back of the stub, and

immediately above the center of the indorsement upon the back of the ballot, shall be printed the consecutive number of the ballot beginning with "No. 1," and increasing in regular numerical order. All of the official ballots of the same sort prepared by any officer or board for the same polling place, shall be of precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that when the stubs numbered as aforesaid shall be detached therefrom, it shall be impossible to distinguish any one of the ballots from the other ballots of the same sort, and the names of all candidates printed upon the ballot shall be in type of the same size and character. If two or more officers are to be elected to the same office for different terms, the terms for which each is nominated shall be printed upon the ballot as a part of the title of the office. If at a general election one representative in congress is to be elected for a full term and another to fill a vacancy, the ballots containing the names of the candidates shall, as a part of the title of the office, designate the term to fill which such candidates are severally nominated. When no nomination has been made by a political party, as designated by section fifty-six, for an office to be filled at the election, the title of such office shall be printed in such party column, and underneath such title shall be printed in brier capital type the words "No nomination." No ticket or list of candidates shall be printed, under the name of any political party or independent body which contains more candidates for any office than there are persons to be elected to such office.

In making up the various official ballots, the county clerk takes into consideration the nominations for state and district offices which have been certified to the secretary of state and the nominations for local offices which appear upon certificates filed in his own office. In combining the names to go upon a particular official ballot he is to select, so far as party nominations are concerned, the candidates nominated by one and the same party and when there are two sets of nominations from the same party he cannot refuse to place one of these sets on a ballot with the state nominees simply because the faction which made the local nominations was not recognized by the last state convention.

His duty is to inquire and determine as a matter of fact whether that faction is really a part of such party or not. If it is, its local candidates should be named on a ballot with the state ticket. If it is not, they should

have a ballot by themselves with blanks so far as relates to state offices. (*Matter of Mitchell*, 81 Hun, 401; *Matter of Wheeler*, 10 Misc. Rep. 55.)

Officers cannot adopt a different order for printing party names and designations than that directed by the secretary of state. (*Fernbacher v. Roosevelt*, 90 Hun, 441.)

One claiming a regular nomination at the hands of a convention which has been declared to be irregular by the supreme authority within the party in the state cannot be regarded as a regular nominee of his party, and is consequently not entitled to have his name printed upon the official ballot. (*Matter of Redmond*, 5 Misc. Rep. 369.)

No matter what a body of voters may have called themselves, if a ticket is nominated and filed according to law the clerk should print the ticket for the popular vote, and a mandamus will lie compelling him so to do in case of either his neglect or his refusal to act. (*People ex rel. Wallace v. Ryan*, 60 Hun, 398.)

The only guide for the county clerk in making up the official ballots consists of the certificates of nomination filed with him. He cannot go behind or beyond these and place under the head or emblem of a particular party the names of candidates not nominated by that party, although he may know that such party intends to support such candidates. (*Matter of Madden*, 148 N. Y. 136.)

§ 82. Form of ballot for questions submitted.—Whenever the adoption of a constitutional amendment or any other proposition or question is to be submitted to the vote of the electors of the state, or of any district thereof, a separate ballot shall be provided by the same officers who are charged by law with the duty of providing the official ballots for candidates for public office. Such ballots shall comply with the requirements of official ballots for candidates for public office, in so far as such requirements are applicable thereto. Under the perforated line shall be clearly printed, in brier lower case type, the question of the adoption of the constitutional amendment or other proposition or question upon which the electors within the district for which such ballot is provided may lawfully vote. If there be more than one constitutional amendment or proposition or question to be submitted to the voters of that district, the different amendments or propositions or questions shall be separately numbered and printed, and separated by a broad solid line one-eighth of an inch wide. Opposite and before each such amendment, question or proposition, so submitted, shall be printed two squares inclosed in ruled lines, one above the other. Preceding the upper one of such squares

shall be printed the words "Yes," and preceding the lower one of such squares shall be printed the word "No." At the top of each such ballots, immediately above the perforated line, shall be printed in brevier capital type the following words only: "Notice to electors. For an affirmative vote upon any question submitted upon this ballot, make a cross X mark in the square after the word 'Yes.' For a negative vote, make a similar mark in the square following the word 'No.'" All such ballots for the same polling place shall be of the same color and size, and similarly printed, so that, after the removal of the stub, which shall be numbered as in case of ballots for candidates for public office, it shall be impossible to identify or distinguish any one of such ballots from the others. On the back of each such ballot, below the stub, shall be printed in addition to the indorsement as prescribed for general ballots, the words "Questions submitted," so as to distinguish the said ballots from the official ballots for candidates for office. Ballots for the submission of town propositions and questions to be submitted at town meetings held on election day shall be printed in the manner provided by this section, but shall be endorsed "Town proposition submitted." All ballots for the submission of town propositions for raising or appropriating money for town purposes, or for incurring a town liability, to be voted at any town meeting in any town, shall be separate from all other ballots for the submission of other propositions or questions to the electors of such town to be voted at the same town meeting or election. Such ballots shall be in the form prescribed in this section and shall be endorsed "propositions for town appropriations." (*Thus amended by chap. 598, L. 1901.*)

Misconduct in relation to official ballots.—"A person who * * *

"4. Forges or falsely makes the official indorsement of any ballot; or

"5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by law.

"Is punishable by imprisonment for not less than one nor more than five years." (*Extract § 41g. Penal Code.*)

The names of all candidates to be voted for at a general election, including village police commissioners, shall be placed on the official ballot prepared by the county clerk. (*In re McLaren, 34 N. Y. St. Repr. 634.*)

This section does not apply to an election held to determine the question of the incorporation of a proposed village. The general act for the incorporation of villages (chap. 291 of 1870) is not repealed directly or by implication by the election law. Official ballots need not be used in such an election. (*Matter of Taylor, 3 App. Div. 244. See § 82, Election Law.*)

§ 83. Sample ballots and stationery.—Sample ballots, equal in number to twenty-five percentum of the number of official ballots provided therefor, shall also be provided for every polling place for which official ballots are required to be provided. Such sample ballot shall be printed on paper of a different color from the

official ballot, and without numbers on the stubs, but shall, in all other respects, be precisely similar to the official ballots to be voted at that polling place. One of such sample ballots shall, at any time on the day of election, be furnished upon application to any elector entitled to vote at that polling place, and may be taken by him away from such polling place before receiving his official ballot or ballots. Twelve instruction cards, printed in English, and twelve printed in each of such other languages as the officer or officers charged with providing them shall deem necessary, shall also be provided for each such polling place, containing in clear, large type, full instructions for the guidance of electors in obtaining ballots for voting, in preparing their ballots for deposit in the boxes, in returning their ballots to the ballot clerks, and in obtaining new ballots in place of those returned, and, in smaller sized type, a copy of each of the sections of the penal code relating to crimes against the elective franchise. There shall also be provided two poll-books, a suitable number of markers, designated as "distance markers," to indicate the distance of one hundred feet from the polling place, two tally sheets and three complete election return blanks for the use of inspectors and ballot clerks in the forms hereinafter provided, heavy manilla envelopes for statements and returns, sealing wax, pencils having black lead only, pens, penholders, blotting paper and ink. All such articles herein enumerated are hereby designated as "stationery."

[For Form for Instruction Card, see Form No. 29, page 108.]

§ 84. **Blank forms for election officers.**—The officers charged with the duty of furnishing official ballots shall furnish to the board of inspectors of each election district, two tally sheet blanks, three ballot return sheet blanks, three election return sheet blanks, one of which shall be endorsed "original return," the other "copies of the original return," three blanks for the report of assisted and challenged electors, which blanks shall be delivered to such board of inspectors as elsewhere provided.

Tally sheets.—The tally sheet blanks shall be printed as nearly as possible in the following form:

Tally sheets.—The tally sheet blanks shall be as nearly as possible in the following form: At the extreme left of such sheet there shall be a column headed "List of offices," in which shall be printed the titles of all the offices printed upon the official ballot, and in the same order. Each office shall be separated by a heavy ruled line running the full width of such sheet. There shall be printed thereon, in separate columns under the name of the respective parties the tickets of all the parties as they appear on the official ballot, so that the names of all candidates for the same office shall be upon the same line. Opposite and to the right of each party or independent ticket or list of candidates, shall be a column headed "Number of votes cast, and counted for each candidate on straight ballots," in which column and opposite every name, shall be entered the number of straight party votes counted (which number is the same for every candidate of that party). To the right of such column there shall be another column headed, "Number of votes cast and counted for each candidate on split ballots," and in such column there shall be entered by single marks, grouped into five marks, the votes canvassed for such candidates on the split ballots. To the right of such column shall be another column headed, "Total number of votes cast and counted for each candidate," in which shall be entered, opposite the name of each candidate, the total number of votes cast and counted for such candidate on both straight and split ballots. To the right of the last column for entering the total vote cast for candidates of any party, shall be a column headed, "*Total number of ballots, not wholly blank, on which no vote was counted for the following offices,*" and in such column shall be entered opposite the titles of the respective offices, by single marks, the number of ballots on which no vote was cast for any candidate for such office. To the right of such column shall be another column headed, "Total number of wholly blank ballots," in which column shall be entered opposite the title of each office the number of ballots found to be wholly blank. To the right of such column shall be another column headed, "Total number of void ballots," in which column shall be entered opposite each title of each office the number of ballots which were rejected as void. At the extreme right of such sheet there shall be a column headed, "Total number of ballots accounted for," in which shall be entered opposite each office the

sum of the total vote cast for all candidates for the office, together with the number of ballots not wholly blank, on which no vote was counted for that office, the total number of wholly blank, and the total number of void ballots, and the votes cast, if any, for candidates for such office whose names are not printed upon the ballot. Such sum must equal the number of ballots voted, as shown by the ballot clerks' return of ballots, and if it does not there has been a mistake in the count, and the ballots must be recounted for such office. In case a person is voted for whose name is not printed on the ballot, the poll clerks, who shall keep the tally sheets, shall enter such name and the votes therefor on the tally sheet. The method of counting the votes shall be as provided in section one hundred and ten of the election law:

Duty purely ministerial. Under the election law, the duty of the inspectors to transcribe from the tally sheet on the official statement the totals, is purely ministerial. (*In re Stewart*, 48 N. Y. Supp. 957.)

The recount provided for in this section means a recount of the ballots which were canvassed and recorded on the tally sheets on the theory that the mistake is due to the fact that the tally sheets do not set forth, in the various columns, all of the ballots subject to canvass. (*Matter of Stiles*, 69 App. Div. 589; 75 N. Y. Supp. 278.) This case states in detail the procedure to be followed on such recount.

Sample.

Form of ballot return to be prepared by the ballot clerks, and attached to the original statement of canvass made by the inspectors and to each copy, in compliance with subdivision two of section one hundred and three of the election law:

- | | |
|--|-----|
| 1. The number of full sets of official ballots furnished to election district number (five) of the (town of Canandaigua), county of (Ontario), were..... | 800 |
| 2. The number of sets of official ballots cancelled before delivery to voters by reason of one or more of the set being found defective in printing or mutilated, all of which were destroyed by us, were..... | 5 |
| 3. The number of sets of official ballots spoiled and returned by voters, all of which were destroyed by us, were | 10 |
| 4. The number of sets of official ballots returned to the county clerk or other officer, unused, were..... | 300 |
| 5. The number of sets of official ballots actually voted were | 485 |
| 6. Total sets of official ballots accounted for are..... | 800 |

7. The number of sets of detached stubs were.....	500
8. The number of sets of stubs on unused ballots were...	300
9. The total sets of stubs accounted for are.....	800

We hereby certify that the foregoing ballot return for election district number (five) of the (town of Canandaigua), county of (Ontario), for the election held November (5th, 1895), is correct. (Signed.)

Ballot Clerks.

Sample.

Inspectors' returns and statement of canvass.—*Original* official statement of the result of a (general) election, held on the (fifth) day of November (1895), in the (fifth) election district of the (town of Canandaigua), county of (Ontario), state of New York, made by the inspectors of election in and for said district, which return is made as provided in section one hundred and eleven of the election law.

RETURN OF BALLOTS VOTED.

1. The whole number of general ballots actually voted, as verified by the return of the ballot clerks attached hereto were (four hundred and eighty-five).....	485
2. The number of general ballots cast and found to be entirely blank, all of which were returned by us to the ballot box, were (five)	5
3. The number of general ballots cast which were rejected by us as "void" and on which no vote was counted for any candidate, all of which are in the sealed package returned herewith, and on each of which ballot is indorsed the reason for such rejection, were (ten)..	10
4. The number of general ballots cast on which votes were counted for one or more candidates, all of which were returned to the ballot box (except those protested as being marked for identification), were (four hundred and seventy).	470
5. The total number of ballots accounted for by us are..	485

We certify the foregoing statement of ballots voted is correct in all respects.

Dated, this (fifth) day of November (1895).

.....

Board of Inspectors.

Statement and Return of the Votes for the Office of (Governor).

1. The number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (governor) were (five) ..	5
3. The whole number of ballots on which votes were counted for the office of (governor) were (four hundred and sixty-five)	465
4. Of which (Levi P. Morton) received (three hundred) .	300
5. (David B. Hill) received (one hundred and sixty-five) .	165
Total	465

Statement and Return of the Votes of the Office of (Lieutenant-Governor).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (lieutenant-governor) were (seven)	7
3. The whole number of ballots on which votes were counted for the office of (lieutenant-governor) were (four hundred and sixty-three)	463

4. Of which (Charles T. Saxton) received (three hundred and three).....	303
5. (William F. Sheehan) received (one hundred and sixty)	160
Total	<u>463</u>

Statement and Return of the Votes for the Office of (County Clerk).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy).....	470
2. The number of ballots cast and counted on which there was no vote for the office of (county clerk) were (ten)	<u>10</u>
3. The whole number of ballots on which votes were counted for the office of (county clerk) were (four hundred and sixty).....	<u>460</u>
4. Of which (John Doe) received (three hundred and fifteen).....	315
5. (Richard Roe) received (one hundred and forty-five)..	<u>145</u>
Total	<u>460</u>

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three)..... 3

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with

the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.

Dated this (fifth) day of November, 1895.

.....

Board of Inspectors.

NOTE.—A similar certificate is to be made at the bottom of each sheet or half sheet of this return. If ballots are voted on any constitutional amendment or question or proposition submitted, a similar return is to be included. Two certified copies of this original statement and return are to be made.

Blank for the Report of Assisted and Challenged Electors.

Three blank statements in the following form shall also be furnished to each board of inspectors, which shall, at the close of the election, be filled by them, and one original statement shall be attached to the original return, and a copy thereof to each copy of the original return.

1. The names of persons who were challenged, and the challenge not withdrawn, were....., in all, three.....(3)
2. The names of persons who received assistance on account of physical disability, were....., in all, five.....(5)
3. The names of persons who received assistance on account of being unable to write by reason of illiteracy, were....., in all, two.....(2)

We certify the foregoing statement is correct.

Dated this (fifth) day of November, 1895.

.....

Board of Inspectors.

§ 85. **Number of official ballots.**—The number of official ballots of each kind to be provided for each polling place for each election to be held thereat, except a village election held at a different time from a general election, shall be one and one-half times as many ballots as near as may be as there were names of electors on the register of electors of such district for such election at the close of the fourth meeting for such registration. In cities of the first class the officer or board charged with the duty of furnishing official ballots shall furnish one and one-half times as many official ballots as near as may be of each kind to be provided for such election as there are electors entitled to vote thereat, as nearly as can be estimated by such officer or board. When but two days of registration are required there shall be a number equal to one and one-half times, as near as may be, the number of names upon the register at the close of the second meeting for registration. The number of official ballots of each kind to be provided for each polling place for a town meeting, held at any time or a village or city election held at a different time from a general election, shall be one and one-half times as near as may be the number of persons who will be entitled to vote thereat, as nearly as can be estimated by the officer charged with the duty of providing such ballots. (*Thus amended by chap. 381, L. 1900.*)

§ 86. **Officers providing ballots and stationery.**—The clerk of each county, except those counties the whole of which are within the city of New York, shall provide the requisite number of official and sample ballots, cards of instruction, two poll books, distance markers, two tally sheets, inspectors' and ballot clerks' return sheets (three of each kind, and one of each to be marked "original"), pens, penholders, ink, pencils having black lead, blotting paper, sealing wax and such other articles of stationery as may be necessary for the proper conduct of the election, and the canvass of the votes, for each election district in such county and not within the city of New York, for each election to be held thereat, except that when town meetings, city or village elections and elections for school officers are not held at the same time as a general election the clerk of such town, city or village, respectively, shall provide such official and sample ballots and stationery for such election or town meeting. If the town meeting is held on general election day ballots and sample ballots for town propositions shall be provided by the town clerk in like manner

and in the same form as at a town meeting held at any other time and such town clerk shall also furnish inspectors' and ballot clerks' return sheets for making returns on town propositions or questions. In towns in which town meetings are held at the time of the general elections, the names of candidates for town offices shall be printed on the same ballots as the names of candidates for other offices voted for in such towns at such general elections. And the board of elections of the city of New York shall provide such articles for each election to be held in said city. Each officer or board charged with the duty of providing official ballots for any polling place, shall have sample ballots and official ballots provided, and in the possession of such officer or board, and open to public inspection as follows: The sample ballots five days before the election, and the official ballots four days before the election for which they are prepared unless prepared for a village election or town meeting held at a different time from a general election, in which case the official ballot shall be so printed and in possession at least one day, and the sample ballots at least two days before such election or town meeting. During the times within which the same are open for inspection as aforesaid, it shall be the duty of the officer or board charged by law with the duty of preparing the same, to deliver a sample ballot of the kind to be voted in his district to each qualified elector who shall apply therefor, so that each elector who may desire the same may obtain a sample ballot, similar except as regards color and the number on the stub, to the official ballot to be voted at the polling place at which he is entitled to vote. (*Thus amended by chaps. 95 and 615, L. 1901, and by chaps. 176 and 405, L. 1902.*)

The amendment made by chap. 405 of the Laws of 1902 superseded that made by chap. 176 of the same year. The latter act related to filing certificates of nomination in Dutchess county. The necessity for the latter act was abrogated by chapter 405, since such act provided for a single ballot for all elections.

§ 87. Distribution of ballots and stationery.—The county clerk of each county except those counties which are wholly within the city of New York, shall deliver at his office to each town or city clerk in such county, except in New York city, on the Saturday before the election at which they may be voted, the official and sample ballots, cards of instructions and other stationery required to be provided for each polling place in such town or city for such election. It is hereby made the duty of each such town or city clerk to call at the office of such county clerk at such time and receive such ballots and stationery. In the city of New York the board required to provide such ballots and stationery

shall cause them to be delivered to the board of inspectors of each election district at least one-half hour before the opening of the polls on each day of election. Each kind of official ballots shall be arranged in a package in the consecutive order of the numbers printed on the stubs thereof, beginning with number one. All official and sample ballots provided for such election shall be in separate sealed packages, clearly marked on the outside thereof with the number and kind of ballots contained therein and indorsed with the designation of the election district for which they were prepared. The instruction cards and other stationery provided for each election district shall also be inclosed in a sealed package or packages, with a label on the outside thereof showing the contents of each such package. Each such town and city clerk receiving such packages shall cause all such packages so received and marked for any election district to be delivered unopened and with the seals thereof unbroken to the inspectors of election of such election district one-half hour before the opening of the polls of such election therein. The inspectors of election receiving such packages shall give to such town or city clerk, or board, delivering such packages a receipt therefor specifying the number and kind of packages received by them, which receipt shall be filed in the office of such clerk or board. Town, city and village clerks required to provide the same for town meetings, city and village elections held at different times from a general election, and the board of the city of New York required to provide the same for elections held therein, respectively, shall in like manner, deliver to the inspectors or presiding officers of the election at each polling place at which such meetings and elections are held, respectively, the official ballots, sample ballots, instruction cards and other stationery, required for such election or town meeting, respectively, in like sealed packages marked on the outside in like manner, and shall take and file receipts therefor in like manner in their respective offices. (*Thus amended by chap. 379, L. 1897.*)

[For Forms for Receipts, see Forms No. 30-31, pages 109, 110.]

Failure to deliver official ballots.—"Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector, as authorized by the election law, and neglects or refuses to do so, is guilty of a misdemeanor." (§ 41th, *Penal Code.*)

§ 88. Errors and omissions in ballots.—Upon affidavit, presented by any elector, that an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of sample or official ballots, the

supreme court, or a justice thereof, may make an order, requiring the county clerk or other officer or board charged with the duty in respect to which such error or omission occurs, to correct such error, or show cause why such error should not be corrected. The county clerk or such other officers or boards shall, upon their own motion, correct without delay any patent error in the ballots which they may discover, or which shall be brought to their attention, and which can be corrected without interfering with the timely distribution of the ballots to the inspectors for use at such election.

Innocent voters will not be disfranchised because of a latent defect in the official ballot furnished by the state, not discernible on inspection, which ballot they were compelled to use, the defect consisting in the unauthorized insertion therein by a public official, charged with the duty of making up and printing the ballots, of names of candidates in a party column not duly nominated by such party. (*People ex rel. Hirsh v. Wood*, 148 N. Y. 142; 14 Misc. Rep. 377.)

§ 89. Unofficial ballots.—If the official ballots required to be furnished to any town or city clerk, or board, shall not be delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the clerk of such town or city, or such board, shall cause other ballots to be prepared as nearly in the form of the official ballots as practicable, but without the indorsement, and upon the receipt of ballots so prepared from such clerk or board, accompanied by a statement under oath that the same have been so prepared and furnished by him or them, and that the official ballots have not been so delivered, or have been so lost, destroyed or stolen, the inspectors of election shall cause the ballots so substituted to be used at the election in the same manner, as near as may be, as the official ballots. Such ballots so substituted shall be known as unofficial ballots.

FORMS FOR ELECTION LAW, ARTICLE 4.

FORM No. 29.

(See sec. 83, Election Law.)

Instruction card to be prepared and printed in one or more languages by county clerks, to be distributed in each voting district and hung in each voting booth election day.

INSTRUCTIONS FOR THE GUIDANCE OF ELECTORS.

Obtaining ballots.—One official ballot or set of official ballots, folded in the proper manner for voting, may be obtained by an elector from the ballot clerks at the polls of election, upon the elector announcing his name to the inspectors and after announcement by the inspectors that he is duly registered. On receiving his ballot he shall forthwith, and without leaving the inclosed space, retire alone to one of the unoccupied voting booths, and without undue delay unfold and mark his ballot as hereinafter described, remaining in the booth not more than five minutes in case all the booths are in use.

Rules for preparing ballots.—The elector is to observe the following rules in marking his ballot, using only for the purpose a pencil having a black lead:

Rule 1. If the elector desires to vote a straight ticket, that is, for each and every candidate of one party for whatever office nominated, he should make a cross X mark in the circle above the name of the party at the head of the ticket.

Rule 2. If the elector desires to vote a split ticket, that is, for candidates of different parties, he should not make a cross X mark in the circle above the name of any party, but should make a cross X mark in the voting space before the name of each candidate for whom he desires to vote on whatever ticket he may be.

Rule 3. If the ticket marked in the circle for a straight ticket, does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted by making a cross X mark before the names of candidates for such offices on other tickets, or by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office.

Rule 4. If the elector desires to vote for any person whose name does not appear upon the ballot, he can so vote by writing the name with a pencil having black lead in the proper place in the blank column.

Rule 5. The elector can vote blank for any office by omitting to make a cross X mark in any circle, and making a cross X mark in the voting space before the name of every candidate he desires to vote for, except for the office for which he desires to cast a blank vote.

Rule 6. In the case of a question submitted, the elector shall make a cross X mark in the blank square space on the right of and after the answer "Yes" or "No," which he desires to give on each such question submitted.

Rule 7. One straight line crossing another straight line at any angle within a circle, or within the voting spaces, shall be deemed a valid voting mark.

Returning and obtaining new ballots in place of those returned.—If an elector defaces or tears a ballot or one of a set of ballots, or wrongly marks the same ballot so that it cannot be used, he may successively obtain others, one set at a time, not exceeding in all three sets, upon returning each set of ballots so defaced or wrongly marked to the ballot clerks.

Delivery of ballots to inspectors.—After marking his ballot or ballots and before leaving the booth the elector must fold his ballot or ballots in the proper manner for voting, which is: First, by bringing the bottom of each ballot up to the perforated line, and second, by folding both sides to the center or towards the center, in such manner that when folded the face of each ballot shall be concealed and the printed number on the stub and the indorsement on the back of the ballot visible. He shall then deliver the ballot or ballots properly folded to the inspector in charge of the ballot boxes, who, if the voter is entitled to vote and be not challenged, or if challenged, the challenge be decided in his favor, and the ballots have no unlawful mark or tear visible on the outside thereof, after removing the stub, shall deposit the same in plain view of the voter in the proper ballot box for the reception of voted ballots.

(Here follow with a copy of each of the sections of the Penal Code relating to crimes against the elective franchise.)

FORM No. 30.

(See sec. 87, Election Law.)

Town clerk's or city clerk's receipt for official ballots received from county clerk.

Received of	, clerk of	county,
One package containing	official ballots.	
One package containing	sample ballots.	
One package containing	poll books.	
One package containing	distance marks.	
One package containing	stationery.	
Dated		

(Signed)

Town (or city) Clerk.

THE ELECTION LAW OF 1896.

FORM No. 31.

(See sec. 87, Election Law.)

Election inspectors' receipt for official ballots received from town or city clerk.

Received of _____, (city or town) clerk,
One package containing official ballots.
One package containing sample ballots.
One package containing poll ballots.
One package containing distance markers.
One package containing stationery.
Dated _____

(Signed)

Inspectors of Election.
Election District No. — (Town or City).

ARTICLE V.

Conduct of Elections and Canvass of Votes.

- SECTION** 100. Opening the polls.
 101. Persons within the guard-rail.
 102. Watchers; challengers, electioneering.
 103. General duties of election officers.
 104. Delivery of ballots to electors.
 105. Preparation of ballots by electors.
 106. Manner of voting.
 107. When unofficial ballots may be voted.
 108. Challenge and oaths.
 109. Time allowed employes to vote.
 110. Method of canvass.
 111. Original statement of canvass and certified copies.
 112. Proclamation of result.
 113. Delivery and filing of papers relating to the election.
 114. Judicial investigation of ballots.

§ 100. **Opening the polls.**—The inspectors of election, poll clerks and ballot clerks of each election district shall meet at the polling place therein at least one-half hour before the time set for opening the polls at each election for which official ballots are required to be provided, and shall proceed to arrange the space within the guard rail and the furniture thereof, including the voting booths, for the orderly and legal conduct of the election. The inspectors of election shall then and there have the ballot boxes required by law for the reception of ballots to be voted thereat; the box for the reception of ballots found to be defective in printing or mutilated, before delivery to, and ballots spoiled and returned by electors; the box for the stubs of voted and spoiled ballots, the sealed packages of official ballots, sample ballots and instruction cards and distance markers, poll books, tally-sheets, return sheets and other stationery required to be delivered to them for such election; and if it be an election at which registered electors only can vote, the register of such electors required to be made and kept therefor. The inspectors shall thereupon open the sealed packages of instruction cards and cause them to be posted conspicuously, at least one, and if printed in different languages, at least one of each language, in each of the voting booths of such polling place, and at least three of each language in which

they are printed in or about the polling place; shall open the sealed packages of official ballots and sample ballots, and place them in charge of the ballot clerks, and shall place the poll books in charge of the poll clerks, and shall cause to be placed at a distance of one hundred feet from the polling place the visible markers designated herein as "distance markers," to prohibit "loitering or electioneering" within such distance. They shall also, before any ballots are cast, see that the voting booths are supplied with pencils having black lead only, unlock the ballot boxes, see that they are empty, allow the watchers present to examine them, and shall lock them up again while empty in such manner that the watchers present and persons just outside the guard-rail can see that such boxes are empty when they are relocked. After such boxes are so relocked they shall not be unlocked or opened until the closing of the polls of such election, and, except as authorized by law, no ballots or other matter shall be placed in them after they are so relocked and before the announcement of the result of such canvass and the signing of the original statement of canvass and the two certified copies thereof. The instruction cards and distance markers posted as provided by law shall not be taken down, torn nor defaced during such election. The ballot clerks, with the official and sample ballots; the inspectors, with such boxes and register of electors, and the poll clerks, with their poll books, shall be stationed as near each other as practicable within such inclosed space. One of the inspectors shall then make proclamation that the polls of the election are open, and of the time o'clock in the afternoon when the polls will be closed.

[For Form of Proclamation, see Forms at end of article.]

MISCELLANEOUS PROVISIONS RELATING TO OPENING OF POLLS.

Election officers to take additional oath before opening of polls. (*See subd. 2, § 104, Election Law, and Form for Additional Oath, at end of this article.*)

Time of opening and closing polls.—Unless otherwise provided by law, the polls shall open at six o'clock in the forenoon and shall close at five o'clock in the afternoon. There shall be no adjournment or intermission until the polls are closed. (*See § 3, Election Law.*)

Meeting of inspectors and poll clerks before opening of polls when voting machines are used.—"The inspectors and poll clerks shall meet

at their respective polling places in each district at least three quarters of an hour before the time set for the opening of the polls." (See § 173, *Election Law*.)

Removal, mutilation or destruction of election supplies, poll-lists or cards of instruction. (See § 41e, *Penal Code*, *post*.)

§ 101. **Persons within the guard-rail.**—From the time of the opening of the polls until the announcement of the result of the canvass of the votes cast thereat, and the signing of the official returns or statements of such canvass and the copies thereof, the boxes and all official ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except inspectors, poll clerks, ballot clerks, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, persons duly admitted for the purpose of voting; provided, however, that candidates for public office voted for at such polling place may be present at the canvass of the votes.

Unlawful presence within guard-rail. (See § 41k, *subd. 6*, *Penal Code*, *post*.)

§ 102. **Watchers; challengers; electioneering.**—Each political party or independent body duly filing certificates of nomination of candidates for offices to be filled at any such election, may, by a writing signed by the duly authorized county, city, town, or village committee of such political party or independent body, or by the chairman or secretary thereof charged with that duty and delivered to one of the inspectors of election, appoint not more than two watchers to attend each polling place thereof. Such committee, chairman or secretary thereof for a city, county, town or village shall not appoint watchers for any polling place outside of such city, county, town or village, respectively. Such watchers may be present at such polling place, and within the guard-rail, from at least fifteen minutes before the unlocking and examination of any ballot box at the opening of the polls of such election until after the announcement of the result of the canvass of the votes cast thereat, and the signing of the original statement of canvass and copies thereof by the inspectors. A reasonable number of challengers, at least one person of each such party or independent body, shall be permitted to remain just outside the guard-rail of each such polling place, and where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls

are open at any polling place, do any electioneering within such polling place, or within one hundred feet therefrom, in any public street, or in any building or room or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place during any day of registration or of the election.

[For Form of Appointment of Watchers, see Forms at end of article.]

Unlawful electioneering, displaying of political posters, etc., at polling places. (See § 41*k*, *subd.* 4, *Penal Code*, *post.*)

Misconduct of watchers. (See § 41*i*, *Penal Code*, *post.*)

§ 103. **General duties of election officers.**—Subdivision 1. One of the inspectors of election at each polling place shall be designated by the board of inspectors of election to receive the ballots from the electors voting; or if the majority of the inspectors shall not agree to such designation, they shall draw lots for such position. If it be an election for which electors are required to be registered, the other inspectors shall before any ballots are delivered by the ballot clerks to an elector, ascertain whether he is duly registered. The ballot clerks shall not deliver any ballot to such elector until the inspectors announce that he is so registered. As each elector votes, the inspectors shall check his name upon such register and shall enter therein in the column provided therefor opposite the name of such elector, the consecutive number upon the stub of the ballot or set of ballots voted by him. The inspector shall forthwith upon detaching the stub from any official ballot deposit the same in the box provided for detached stubs. In all proceedings of the inspectors acting as registrars, inspectors or canvassers, they shall act as a board, and, in case of a question arising, as to matters which may call for a determination by them, a majority of such board shall decide.

Subdivision 2. In addition to the duties hereinbefore enjoined upon them, the ballot clerks shall deliver official ballots to the electors in such order that the numerical order of the numbers printed on the stubs of the ballots so delivered, shall be the same as the order of the successive deliveries thereof, the ballot numbered one on the stubs being first delivered and so on. If, in addition to the general ballots there shall be a ballot containing a proposed constitutional amendment or other proposition or question, the ballots shall be delivered to the electors in such order that the numbers upon the stubs of both ballots so delivered shall be

the same. If, in a case where more than one ballot is to be voted, the elector shall spoil one of a set of ballots, and shall be entitled to receive a new set under the provisions of this act, he shall return the spoiled set to the ballot clerks before new ballots are furnished to him. In case one of a set of ballots bearing the same number shall be found defective in printing or mutilated before the same is given to the elector, both ballots of that number shall have the stubs removed therefrom by the ballot clerks and such ballots shall be deposited in the box for spoiled and mutilated ballots, and the stubs in the box for detached stubs, and a memorandum shall be made by the ballot clerks of the number on such ballots and the fact that the set was not delivered to electors because defective in printing or mutilated. The ballot clerks shall, upon the delivery of official ballots to each elector, announce the elector's name and the number printed on the stub of each ballot so delivered. Upon the return of a ballot or set of ballots to them unvoted by any elector, they shall announce the name of the elector returning them and the printed number on the stubs of the ballots so returned, and shall at once remove the stubs from such returned ballots and deposit such stubs in the box for detached stubs, and such ballots in the box for spoiled and mutilated ballots. A memorandum shall be made by them of the number on such ballots, and of the fact that they were returned spoiled by electors. They shall immediately upon the closing of the polls take from the box containing them the spoiled and mutilated ballots, and after comparing the number thereof with the record of the same, made during the day, shall destroy them; and shall thereupon prepare and sign a written statement or return of ballots in the form provided for in section eighty-four of the election law. The original statement so made by them shall be attached to the original statement of the canvass made by the board of inspectors and a copy thereof to each copy of such original statement of canvass. They shall inclose all unused ballots, and all detached stubs, in a sealed package, and deliver the same to the chairman of the board of inspectors.

[For Form for Ballot Clerks' Return, see § 84, Election Law.]

Subdivision 3. Each poll clerk at each polling place for which official ballots are required to be provided, shall have a poll-book

for keeping the list of electors voting or offering to vote thereat at the election. Such book shall have six columns headed respectively, "Number of elector," "Names of electors," "Residence of electors," "Number on ballots delivered to electors," "Number on ballots voted," and "Remarks." Upon each delivery of an official ballot or set of official ballots by the ballot clerks to an elector, each poll clerk shall enter upon his poll-book in the appropriate column, the number of the elector, in the successive order of the delivery of ballots thereto, the name of the elector, in the alphabetical order of the first letter of his surname, his residence by street and number, or if he have no street number, a brief description of the locality thereof, the printed number upon the stub of the ballots delivered to such elector, and the number on the ballots voted by him. If the ballot or set of ballots delivered to any elector shall be returned by him to the ballot clerk, and he shall obtain a new ballot or set of ballots, the poll clerks shall write opposite his name on the poll books, in the proper column, the printed number on the stubs of such ballot or additional set of ballots. Each poll clerk shall make a memorandum upon his poll book opposite the name of each person who shall have been challenged and taken either of the oaths prescribed upon such challenge, or who shall have received assistance in preparing his ballot and shall also enter upon the poll book opposite the name of such person the names of the election officers or persons who render such assistance, and the cause or reason assigned for such assistance by the elector assisted. As each elector offers his ballot or set of ballots which he intends to vote to the inspector, each poll clerk shall report to the inspectors whether the number entered on the poll book kept by him as the number on the ballot or set of ballots last delivered to such elector, is the same as the number on the stub of the ballot or set of ballots so offered. As each elector votes, each poll clerk shall enter in the proper column on his poll book the number on the stub of the ballots voted. Upon the close of the polls of the election, the poll clerks and inspectors shall compare the poll books with the registers and correct any mistakes found therein. The poll clerks shall also during the canvass of the votes, as prescribed by section one hundred and ten of the election law, make and complete the tally sheets of the votes in the form provided by section eighty-four of the election law.

PENAL PROVISIONS RELATING TO ELECTIONS.

Misdemeanors in relation to elections.—Certain acts of election officers a misdemeanor. (*See* §§ 41 41k, *Penal Code, post.*)

Misconduct of election officers and watchers. (*See* subd. 4, § 41, *Penal Code, post.*)

Violation of election law by public officer. (*See* § 41j, *Penal Code, post.*)

Conspiring to promote or prevent election of persons. (*See* § 41u, *Penal Code, post.*)

Inspectors of election have equal power one with another. (*People v. Van Slyck*, 4 Cow. 297.)

Inspectors of election are merely ministerial officers. (*People v. Pease*, 27 N. Y. 45; *Goetcheus v. Matthewson*, 61 id. 420; *People ex rel. Stapleton v. Bell*, 119 id. 175; *People ex rel. Sherwood v. Board*, 129 id. 372; *Matter of Hamilton*, 80 Hun, 511; *People v. Van Slyck*, 4 Cow. 297.)

§ 104. **Delivery of ballots to electors.**—Subdivision 1. While the polls of the election are open, the electors entitled to vote and who have not previously voted thereat, may enter within the guard-rail at the polling place of such election for the purpose of voting, in such order that there shall not at any time be within such guard-rail more than twice as many electors as there are voting booths thereat, in addition to the persons lawfully within such guard-rail for other purposes than voting. The electors shall enter within the guard-rail through the entrance provided, and shall forthwith proceed to the inspectors and give his name, and, if in a city or village of five thousand inhabitants or over, his residence by street and number, or if it have no street number, a brief description of the locality thereof, and if required by the inspectors shall state whether he is over or under twenty-one years of age. One of the inspectors shall thereupon announce the name and residence of the elector in a loud and distinct tone of voice. No person shall be allowed to vote in any election district at any election where electors are required to be registered unless his name shall be upon the registration books of such election district. The right of any person to vote, whose name is on such register, shall be subject to challenge. If such elector is entitled to vote thereat, and is not challenged, or if challenged and the challenge be decided in his favor, one of the ballot clerks shall then deliver to him one official ballot or a set of official ballots, folded by such ballot clerk in the proper manner for voting, which is: First, by bringing the

bottom of the ballot up to the perforated line, and second by folding both sides to the center, or towards the center, in such manner that when folded the face of each ballot shall be concealed, and the printed number on the stub and the indorsement on the back of the ballot shall be visible, so the stub can be removed without removing any other part of the ballot, and without exposing any part of the face of the ballot below the stub, and so that when folded the ballot shall not be more than four inches wide. No person other than an inspector or ballot clerk shall deliver to any elector within such guard-rail any ballot, and they shall deliver only such ballots as the voter is legally entitled to vote, and also the sample ballot when the same is asked for.

Delivery of ballots to voter by persons not ballot clerks, a misdemeanor. (*See subd. 14, § 41k, Penal Code, post.*)

Subdivision 2. Any elector who shall, at the time of registration, have made oath of physical disability or illiteracy, as prescribed by the third subdivision of section thirty-four of the election law; or, who being duly registered, in an election district where personal registration by all electors is required by law, shall state under oath, to the inspectors of election, on the day of election, that, by reason of some accident the time and place of which he must specify, or of disease, the nature of which he must also specify, he has since the day upon which he registered, lost the use of both hands, or become totally blind, or afflicted by such degree of blindness as will prevent him, with the aid of glasses, from seeing the names printed upon the official ballot, or so crippled that he cannot enter the voting booth and prepare his ballot without assistance; or any elector in an election district who is not required by law to personally register, who is unable to write by reason of illiteracy, or is physically disabled in one or more ways described in the third subdivision of section thirty-four of the election law, and who shall make the statement under oath to the inspectors in the form required in said subdivision, may choose two of the election officers, both of whom shall not be of the same political faith, to enter the booth with him, to assist him in preparing his ballots. At any town meeting or village election, where the election officers are all of the same political faith, any elector entitled to assistance as herein provided may select one of such

election officers and one elector of such town or village of opposite political faith from such election officer so selected, to render such assistance. Such election officers or persons assisting an elector shall not in any manner request or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, and shall not keep or make any memoranda or entry of any thing occurring within such booth, and shall not, directly or indirectly, reveal to any other person the name of any candidate voted for by such elector, or which ticket he has voted, except they be called upon to testify in a judicial proceeding for a violation of this act, and each election officer, before the opening of the polls for the election, shall make oath that he "will not in any manner request, or seek to persuade, or induce any elector to vote any particular ticket or for any particular candidate, and that he will not keep or make any memoranda or entry of anything occurring within the booth, and that he will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector or which ticket he has voted, or anything occurring within the polling booth, except he be called upon to testify in a judicial proceeding for a violation of the election law." The same oath shall be taken by any elector rendering such assistance, as provided for above, and any violation of this oath shall be a felony punishable upon conviction by imprisonment in a state prison for not less than two nor more than ten years. No elector shall otherwise ask or receive the assistance of any person within the polling place in the preparation of his ballot, or divulge to anyone within the polling place the name of any candidate for whom he intends to vote or has voted.

[For Forms for Oaths of Electors and Report of Inspectors as to Assisted Electors, see Forms at end of article.]

Inducing elector to vote particular ballot and revealing vote, a misdemeanor. (*See subd. 9, § 41k, Penal Code, post.*)

Elector taking oath entitled to assistance.—"A voter taking the physical disability oath is entitled to the assistance provided." (*Opinion Attorney-General.*)

Inspectors not judges of kind or extent of disability.—"The inspectors of election do not seem to be made, in any way by this statute, the judges of the kind or extent of the 'physical disability' with which the voter is inflicted.

"The voter himself must, however, declare, under oath, that by reason

thereof 'he is unable to prepare his ballot without assistance.' This is quite analogous to the requirements of the general election laws of the state, that the voter when challenged may take the 'general oath,' and if he persists in his claim to vote, the court of appeals has held that it is imperative on the inspectors to receive the vote and deposit the same in the ballot box. (*See People v. Pease*, 27 N. Y. 53; *Goetcheus v. Matthewson et al.*, 61 id. 420.)

"The statutory provision cited is a new one, but the question suggested is one frequently asked and will necessarily arise before the inspectors of election on election day, and while the construction above indicated may not be entirely free from doubt, yet after the best consideration which I have been able to give the matter I am of the opinion that the statute will be complied with, if the voter so insists, by taking the oath provided.

"The voter must, however, see to it that this declaration is not false, in fact, for if it is he is liable to be prosecuted for perjury; and while we may admit that the inspectors would have no right to inquire into the truth or falsity of the voter's declaration, no such objection exists to the qualifications or authority of a grand jury to make this inquiry." (*Opinions Attorney-General.*)

§ 105. Preparation of ballots by electors.—On receiving his ballot the elector shall forthwith and without leaving the inclosed space, retire alone unless he be one that is entitled to assistance in the preparation of his ballot, to one of the voting booths, and without undue delay, unfold and mark his ballot as hereafter prescribed. No elector shall be allowed to occupy a booth already occupied by another, or to occupy a booth more than five minutes in case all the booths are in use and electors waiting to occupy the same. It shall not be lawful to make any mark upon the official ballot other than the cross X mark made for the purpose of voting, with a pencil having black lead, and that only in the circles or in the voting spaces to the left of the names of candidates, or to write anything thereon other than the name or names of persons not printed upon the ballot for whom the elector desires to vote in the blank column under the proper title of the office, with a pencil having black lead, nor shall it be lawful to deface or tear a ballot in any manner, nor to erase any printed device, figure, letter or word therefrom, nor to erase any name or mark written thereon by such elector. If an elector deface or tear a ballot or one of a set of ballots, or wrongly marks the same, he may successively obtain others, one set at a time, not exceeding in all three sets. upon returning each set of ballots so defaced or wrongly marked

to the ballot clerks. The elector should observe the following rules in marking his ballot:

Rule 1. If the elector desires to vote a straight ticket, that is, for each and every candidate of one party for whatever office nominated, he should make a cross X mark in the circle above the name of the party at the head of the ticket.

Rule 2. If the elector desires to vote a split ticket, that is, for candidates of different parties, he should not make a cross X mark in the circle above the name of any party, but should make a cross X mark in the voting space before the name of each candidate for whom he desires to vote on whatever ticket he may be.

A voter of a split ticket must place his cross mark in the "voting space" before the name of his candidate. If he places the mark before the name but without the "voting space," the ballot is void. (*Wells v. Collins*, 19 App. Div. 437.)

Rule 3. If the ticket marked in the circle for a straight ticket, does not contain the names of candidates for all offices for which the elector may vote, he may vote for candidates for such offices so omitted by making a cross X mark before the names of candidates for such offices on other tickets, or by writing the names, if they are not printed upon the ballot, in the blank column under the title of the office.

Writing the names of candidates already printed upon the ballots in the blank space for the same office vitiates the ballot under the plain language of the statute. *People ex rel. Feeny v. Bd. Canvassers*, 156 N. Y. 39.

Rule 4. If the elector desires to vote for any person whose name does not appear upon the ballot, he can so vote by writing the name with a pencil having black lead in the proper place in the blank column.

Rule 5. The elector can vote blank for any office by omitting to make a cross X mark in any circle, and making a cross X mark in the voting space before the name of every candidate he desires to vote for, except for the office for which he desires to cast a blank vote.

Rule 6. In the case of a question submitted, the elector shall make a cross X mark in the blank square space on the right of and after the answer "Yes" or "No," which he desires to give on each such question submitted.

Rule 7. One straight line crossing another straight line at any angle within a circle, or within the voting spaces, shall be deemed a valid voting mark. (*Thus amended by chap. 335, L. 1898.*)

[For Illustration Showing how to Mark Tickets, see Forms at end of article.]

Certain acts in connection with preparation of votes, a misdemeanor. (*See § 41k, Penal Code, post.*)

Elector may vote for any person or make up a new ticket.—The ballot law was not intended to restrict the choice of the people. The voter may vote for any person for any office. He may make up an entire new ticket. (*People ex rel. Bradley v. Shaw*, 45 N. Y. St. Repr. 533.)

Elector to comply with requirements.—The right to vote, secured to the citizen by the constitution, must be exercised in the manner and subject to the regulations lawfully prescribed by the legislature in respect to the time when and the method by which his will is expressed; and, in order to render his will and intention effectual at the election, he must comply with at least all the substantial requirements of the law. (*People ex rel. Sherman v. Person*, 45 N. Y. St. Repr. 528; *People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 395, 401.)

Writing name of candidate upon ballot.—The voter is warranted in writing upon an official ballot, from which the name of an office has been omitted by clerical mistake or otherwise, the name of the office and the person whom he desires to vote for as the incumbent thereof. (*People ex rel. Goring v. President*, 144 N. Y. 616.)

Absence of the name of a candidate from an official ballot will not deprive the elector of voting for such candidate. (*People ex rel. Goring v. President, etc.*, 144 N. Y. 616; *Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444.)

§ 106. **Manner of voting.**—When the ballot or ballots which an elector has received shall be prepared as provided in section one hundred and five of this act, he shall leave the voting booth with his ballot folded so as to conceal the face of the ballot, but show the indorsement and fac simile of the signature of the official on the back thereof, and, keeping the same so folded, shall proceed at once to the inspector in charge of the ballot box, and shall offer the same to such inspector. Such inspector shall announce the name of the elector and the printed number on the stub of the official ballot so delivered to him in a loud and distinct tone of voice. If such elector be entitled then and there to vote, and be not challenged, or if challenged, and the challenge be decided in his favor, and if his ballot or ballots are properly folded, and have no mark or tear visible on the outside thereof, except the printed

number on the stub and the printed indorsement on the back, and if such printed number is the same as that entered on the poll-books as the number on the stub or stubs of the official ballot or set of ballots last delivered to him by the ballot clerks, such inspector shall receive such ballot or ballots, and after removing the stub or stubs therefrom, in plain view of the elector, and without removing any other part of the ballot, or in any way exposing any part of the face thereof below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots; and the stubs in the box for detached ballot stubs. Upon voting, the elector shall forthwith pass outside the guard-rail unless he be one of the persons authorized to remain within the guard-rail for other purposes than voting. No ballot without the official indorsement shall be allowed to be deposited in the ballot box except as provided by sections eighty-nine and one hundred and seven of the election law, and none but ballots provided in accordance with the provisions of the election law shall be counted. No official ballot folded shall be unfolded outside the voting booth. No person to whom any official ballot shall be delivered shall leave the space within the guard-rail until after he shall have delivered back all such ballots received by him either to the inspectors or to the ballot clerks, and a violation of this provision is a misdemeanor. When a person shall have received an official ballot from the ballot clerks or inspectors, as hereinbefore provided, he shall be deemed to have commenced the act of voting, and if, after receiving such official ballot, he shall leave the space inclosed by the guard-rail before the deposit of his ballot in the ballot box, as hereinbefore provided, he shall not be entitled to pass again within the guard-rail for the purpose of voting, or to receive any further ballots.

An elector must vote all the ballots that he wishes and is able to vote at one time.—He cannot present himself more than once at the polls for the purpose of voting, and when he is reached in his turn he must once, and for all, exercise his right of suffrage at that election. (*Simpson v. Brown*, 18 N. Y. St. Repr. 781.) (This decision was based on the election laws for the city of New York in force in 1888, but the principle of law is applicable under the present general law.)

§ 107. When unofficial ballots may be voted.—If, for any cause, the official ballots shall not be provided as required by law at any polling place, upon the opening of the polls for an election thereat, or if the supply of official ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as practicable in the form of the official ballot, may be used.

§ 108. Challenge.—Subdivision 1. A person may be challenged either when he applies to the ballot clerk for official ballots, or when he offers to an inspector the ballot he intends to vote, or previously by notice to that effect to an inspector by any elector. It shall be the duty of each inspector to challenge every person

offering to vote, whom he shall know or suspect not to be duly qualified as an elector, and every person whose right to register as an elector was challenged at the time of registration, providing such challenge has not previously been withdrawn. In the election districts within the metropolitan elections district whenever a person shall apply to the board of inspectors on election day to vote upon the name of a person whose right to register as an elector was challenged it shall be the duty of the chairman of the board of inspectors or some member of such board to administer to such applicant the preliminary oath prescribed herein and to read to such applicant each question upon the copy of the challenge affidavit signed at the time of registration by the person upon whose name the applicant desires to vote and the inspectors and watchers shall compare the answers given to such questions with the answers recorded thereto upon the copy of said challenge affidavit and shall carefully compare the description of the person challenged at the time of registration recorded upon the copy of the challenge affidavit with that of the applicant. If there shall be any material difference or conflict between the answers given by the applicant and the answers recorded upon the copy of the challenge affidavit to the questions printed thereon, or in the description of the person challenged and the applicant or, if the applicant shall refuse to answer any question put him or, shall refuse to make such oath his vote shall not be received and the facts thereof shall be recorded in each such case in the challenge record provided for in subdivision three of this section. If any person other than those persons heretofore provided for, offering to vote at any election shall be challenged in relation to the right to vote thereat, one of the inspectors shall tender to him the following preliminary oath: You do swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualification as an elector. The inspectors or one of them shall then question the person challenged in relation to his name; his place of residence before he came into that election district; his then place of residence, his citizenship; whether he be a native or naturalized citizen, and if the latter, when, where, and in what court, or before what officer he was naturalized; whether he came into the election district for the purpose of voting at that election; how long he contemplates residing in the election district, and all other matters which may tend to test his qualifications as a resident of the election district, citizenship and right to vote at such election at such polling place. If any person shall refuse to take such preliminary oath when so tendered, or to answer fully any such question which may be put to him, his vote shall be rejected. After receiving the answers of the persons so challenged, the board of inspectors shall point out to him the qualifications, if any, in respect to which he shall appear to them deficient. (*Thus amended by chap. 544, L. 1901.*)

Form of Questions under Preliminary Oath. see Forms at end of article.]

division 2. General oath.—If the person so offering to vote, persist in his claim to vote, and the challenge be not withdrawn, one of the inspectors shall then administer to him the following general oath: "You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the United States for ninety days, and an inhabitant of this state for the year next preceding this election, and for the last four months a resident of this county, and for the last thirty days a resident of election district, and that you have not voted at this election." The person so offering to vote shall be challenged for causes mentioned in section two of article two of the constitution of this state, and the following additional oath shall be administered by one of the inspectors: "You do swear (or affirm) that you have not received, offered, do not expect to receive, have not paid, offered or agreed to pay, contributed, offered or promised to contribute to, or to be paid, or used, any money, or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that you have not made, or become directly or indirectly interested in any wager depending upon the result of this election." If the person so offering to vote shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: "You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, you have been pardoned and restored to all the rights of a citizen." If any person shall refuse to take either oath so tendered to him, he shall be rejected, but if he shall take the oath or oaths tendered him, his vote shall be accepted.

Power of inspectors.—"Inspectors of election have no judicial power authorizing them to reject the vote of any person offering same who fails to pass with the statutory tests." (*Opinion Attorney-General.*)

Persons taking oath entitled to vote.—"Voters answering the question and taking the oath prescribed are entitled to vote." (*Opinion Attorney-General.*)

Persons must take oath.—"A person whose right to vote is challenged on election day must take the oath required by law, notwithstanding any other oath he may have taken to procure the registration of his name." (*Opinion Attorney-General.*)

Inspectors of election act only ministerially in receiving the votes of electors, and cannot refuse to accept a vote of an elector who takes the oath. (*People v. Pease*, 27 N. Y. 45; *Goetcheus v. Matthewson*, 1420; *People ex rel. Stapleton v. Bell*, 119 id. 175; *People ex rel.*

Sherwood v. Board of Canvassers, 129 id. 372; *Matter of Hamilton*, 80 Hun, 511.)

A deserter from the U. S. military service who has taken the preliminary oath upon being challenged cannot be deprived of his vote unless a duly authenticated record of his conviction of the offense is presented to the board. (*Goetcheus v. Matthewson*, 61 N. Y. 420.)

One who offers his vote is legally presumed to be entitled to vote until some facts appear which would raise a contrary presumption. But where it appears by *prima facie* evidence that a person has never been naturalized, the burden of proving his citizenship is upon the voter. (*People v. Pease*, 27 N. Y. 45.)

The decision by a majority of the board of inspectors in his favor is not essential to the reception of the vote of a challenged voter. (*People ex rel. Stapleton v. Bell*, 119 N. Y. 175.)

Election officers are liable in damages for asking questions not tending to test the qualifications to vote of a challenged voter and for rejecting his vote upon his refusal to answer such questions. (*Goetcheus v. Matthewson*, 61 N. Y. 420.)

Mandamus is proper to compel inspectors to take the vote of a challenged elector who has answered the proper questions and taken the required oaths. But mandamus will not be granted if it appear indisputably upon the application that the elector is not a qualified voter. (*People v. Pease*, 27 N. Y. 45; *Goetcheus v. Matthewson*, 61 id. 420; *People ex rel. Stapleton v. Bell*, 119 id. 175; *People ex rel. Sherwood v. Board of Canvassers*, 129 id. 360.)

The case of *People ex rel. Lower v. Donovan* (63 Hun, 512), holding that a mandamus issued upon election day compelling inspectors to accept a vote is void elsewhere than in the first judicial district, can be no longer applicable as the statute forbidding courts to sit upon election day has been repealed. (See § 108, *Election Law*.)

Subdivision 3. Record of persons challenged.—The inspectors of election shall keep a minute of their proceedings in respect to the challenging and administering oaths to persons offering to vote, in which shall be entered, by one of them, the name of every person who shall be challenged or take either of such oaths, specifying in each case whether the preliminary oath or the general oath, or both were taken. At the close of the election, the inspectors shall add to such minutes a certificate to the effect that the same are all such minutes as to all persons challenged at such election in such district.

[For Form for Record of Challenges, see Forms at end of article.]

§ 109. Time allowed employes to vote.—Any person entitled to vote at a general election held within this state, shall on the day

of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such elector shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice, makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such elector, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employes of municipalities.

Refusal to permit employes to attend elections, a misdemeanor. (*See § 41f, Penal Code, post.*)

Intimidation of employes a misdemeanor, and if a corporation shall in addition forfeit its charter. (*See § 41t, subd. 3, Penal Code, post.*)

§ 110. Canvass of votes.—Subdivision 1. **Preparation for canvass.**—As soon as the polls of an election are closed, the inspectors of election thereat shall publicly canvass and ascertain the votes, and not adjourn or postpone the canvass until it shall be fully completed. Any election officer who shall sign any original statement of canvass, or certified copies thereof, at any place other than the polling place, or at any time other than immediately after the canvass is completed, and any election officer or person who shall take from the polling place any such statement before it shall have been signed as herein provided, is guilty of a felony, and shall be punished upon conviction thereof, by imprisonment in a state prison for not less than two or more than five years. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons, during the canvass, to close or cause to be closed, the main entrance to the room in which such canvass is conducted in such manner as to prevent ingress or egress thereby. When two ballot boxes are provided for the reception respectively of voted general ballots and question submitted ballots, the said ballot boxes shall be opened and the ballots therein canvassed in the following order, namely: First, the box containing the general ballots; secondly, the box containing the

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upon any constitutional amendment or other proposition. The board of inspectors shall commence the day by comparing the two poll books with the registers used on that day, as to the number of electors voting at the election, correcting any mistakes therein, and by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the number of ballots found in each box with the number shown by the poll books and the ballot clerks' statement to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced without being unfolded in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess and without unfolding them, forthwith destroy them. If two or more ballots shall be found in the ballot box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot box exceeds the whole number of ballots shown by the poll books and ballot clerks' statement to have been deposited therein, and not otherwise. If there lawfully be more than one ballot box for the reception of ballots voted at the polling place, no ballot properly indorsed, found in the wrong ballot box, shall be rejected, but shall be placed in its proper box by the inspectors upon the count of the ballots before the canvass, and counted in the same manner as if found in the proper ballot box, if such ballot shall not, together with the ballots found in the proper ballot box, make a total of more ballots than are shown by the poll books and ballot clerks' statement to have been deposited in the proper box. No ballot that has not the official indorsement shall be counted, except such as are voted in accordance with the provisions of the election law relating to unofficial ballots. The chairman only of the board of inspectors shall unfold the ballots taken from the ballot box. (*Thus amended by chap. 335, L. 1898.*)

The indorsement upon the official ballot is an essential part of the machinery of elections, by means of which the secrecy of voting is to be secured and enforced. Where ballots were cast containing an incorrect in-

indorsement they were rejected lawfully. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

(It should be noted, however, that the ballots referred to in the above case were prepared under what was known as the Ballot Reform Law, which provided that each political party should have a separate ballot for its own use, and, therefore, if the indorsement upon the back of one set of ballots was different from the indorsement upon the others, the ballot would reveal, when voted, how, or for whom, the elector cast his ballot. In the present law where there is but one ballot for all parties, is the indorsement necessarily of so great importance?)

A proper and legal indorsement is one of the essential features of an official ballot and a ballot not legally indorsed cannot be received or counted. (*People ex rel. Sherman v. Person*, 45 N. Y. St. Repr. 528.)

Subdivision 2. Intent of electors.—Rule No. 1. If the elector shall have made a voting mark in the circle above one ticket only, and no other voting mark appears on other ticket or tickets, and if no name shall have been written in the blank column, he shall be deemed to have cast his vote for all the candidates on the ticket so marked in the circle.

Cross mark in more than one voting circle at head of ticket should be counted for a candidate for same office named on the different tickets marked in the circle. (*People ex rel. Feeney v. Board Canvassers*, 156 N. Y. 39.)

Rule No. 2. If the elector shall have made a voting mark in the circle above one ticket only, and shall have also made a voting mark or marks in the voting space or spaces before the name or names of a candidate or candidates, only on the ticket so marked in the circle, the voting marks in the spaces before the names of candidates on such ticket shall be treated as surplusage, and his vote shall be deemed to have been cast for all the candidates on the ticket so marked in the circle.

Voting marks before the name of same candidate for same office in two different columns to be regarded merely as surplusage and ballot not rendered thereby as a marked ballot. (*People ex rel. Feeney v. Board Canvassers*, 156 N. Y. 39.)

Rule No. 3. If the elector shall have made a voting mark in the circle above one ticket only, and shall have also made a voting mark in the voting space or spaces before the name or names of a candidate or candidates on one or more other tickets, he shall be deemed to have cast his vote for all the candidates on the ticket

so marked in the circle, except for those for whom he has indicated his intention not to vote, by making a voting mark in the voting space before the name or names of individual candidates, on one or more other tickets, or by writing a name in the blank column; and the candidate or candidates so individually voted for on such other ticket or tickets shall be deemed to be the voter's choice for such office or offices; provided, however, that:

Cross marks before name of opposing candidate for same single office do not wholly invalidate the ballot only the particular office affected by such marks. (*People ex rel. Feeney v. Board Canvassers*, 156 N. Y. 39.)

Rule No. 4. When two or more persons are to be voted for for the same office, as two or more justices of the supreme court or presidential electors, and the names of the several candidates therefor are printed under the title of the office for which all are running, and the elector shall have made a voting mark in the circle at the head of a ticket, and shall also have made a voting mark in the voting space before the name of one or more of a group of candidates for such office on other tickets, providing that he shall not have marked the names of two or more of such candidates upon the same line upon the ballot, he shall be deemed to have cast his vote for all the candidates for such office so individually marked and for those marked in the circle, except for those candidates under such circle so marked whose names are upon the same line on the ballot as the names of the candidates so individually marked, or written in the blank column, unless in addition to making the voting mark in the circle at the head of the ticket he shall also have made a voting mark before each one of the group of candidates for such office for whom he desires to vote on the ticket so marked in the circle; provided, further, however, that:

Cross marks opposite names of two candidates for same office in different columns but not on same horizontal line do not vitiate ballot. The elector should be regarded as having exercised his right to select which one of the two candidates in the different columns he cast his vote for. (*People ex rel. Feeney v. Board Canvassers*, 156 N. Y. 39.)

Rule No. 5. When two or more persons are to be voted for for the same office, as two or more justices of the supreme court or presidential electors, and the names of the several candidates therefor are printed on any ticket under the title of the office for which all are running, and the electors shall have made a voting

mark in the circle at the head of the ticket, and shall also have made a voting mark in the voting space before the name of more than one of the group of candidates for such office printed on the same line on the ballot on other tickets, or by writing the name or names of a candidate or candidates in the blank column, he must also indicate by voting marks in the voting spaces on the ticket so marked in the circle the individual candidates of the group of candidates on such ticket for whom he desires to vote, or his vote shall only be counted for the candidates for such office which are so individually marked on other tickets, or written in the blank column.

Attempting to vote for three candidates for same office by placing voting marks opposite their names when only two candidates are to be elected does not wholly destroy the ballot or require the inspector to throw it out, but only to exclude the vote as to the particular office affected, it being impossible to determine the elector's choice for the office. (*People ex rel. Feeney v. Board Canvassers*, 156 N. Y. 39.)

Rule No. 6. If the elector shall have made a voting mark in more than one circle at the head of the tickets, and if on either of such tickets there shall be one or more candidates for office for which no other candidate or candidates is or are named on such other ticket or tickets so marked in the circle his vote shall be counted for such candidate or candidates.

Rule No. 7. Subject to the foregoing rules if the elector marks more names than there are persons to be elected to an office, or if for any other reason, it is impossible to determine the elector's choice of a candidate for an office to be filled, his vote shall not be counted for such office but shall be returned as a blank vote for such office.

Rule No. 8. In the case of a question submitted, if the elector shall have made a voting mark in the voting space after the printed word "Yes," his vote shall be deemed to be in favor of the adoption of the question submitted; if he shall have made a voting mark in the voting space following the printed word "No" his vote shall be deemed to be against the adoption of the question submitted.

Rule No. 9. A void ballot is a ballot upon which there shall be found any mark other than a single cross X mark made for the purpose of voting, which voting mark must be made with a pencil

having black lead, only in the circles, or in the voting spaces to the left of the names of candidates; or one upon which anything is written other than the name or names of persons not printed upon the ballot, for whom the elector desires to vote, which must be written in the blank column under the proper title of the office with a pencil having black lead; or one which is defaced or torn by the elector; or upon which there shall be found any erasure of any printed device, figure, letter or word, or of any name or mark written thereon, or upon a separate piece of paper or other material enclosed in such ballot by such elector, and upon such ballot no vote for any candidate thereon shall be counted. (*Thus amended by chap. 654, L. 1901.*)

Void ballots — ballots not conforming to the provisions of a statute intended for the purpose of securing secrecy, and which reveal the contents or render them capable of subsequent identification, are void by force of prohibition in the statute against revealing and counting them. (*Commonwealth v. Woelper*, 3 S. & R. 29; *West v. Ross*, 55 Mo. 350; *Oglesby v. Sigman*, 56 Miss. 502; *State v. McKinnon*, 8 Oreg. 493; *Reynolds v. Snow*, 67 Cal. 497; *Talcott v. Philbrick*, 59 Conn. 472; *Fields v. Osborne*, 21 Atl. Rep. 1070; *In re Vote Marks*, id. 962; *Ledbetter v. Hall*, 62 Mo. 422; *Perkins v. Carraway*, 59 Miss. 222; *Steele v. Calhoun*, 61 id. 556.)

Mutilated ballot. Where two ballots were discovered to be mutilated by having torn from the bottom thereof stubs containing the names of certain of the candidates, and the stubs so torn off were found deposited among the stubs in the box for detached stubs, the court, assuming that the mutilation was due to the inadvertent act of the inspectors, held that the mutilated ballots should be counted. (*Thacher v. Lent*, 71 App. Div. 483; 75 N. Y. Supp. 732.)

Marks in voting place made as if by some sharp instrument, other than a pencil, render ballot void and should not be counted. (*People ex rel. Feeney v. Bd. Canvassers*, 156 N. Y. 39.)

Cross marks in voting space before word "No nomination" are marks other than to be used by elector for voting and render ballot containing such marks void. (*People ex rel. Feeney v. Bd. Canvassers*, 156 N. Y. 39.)

Writing the name of candidate for office already printed in the blank column for the same office vitiates the ballot under the plain language of the statute. (*People ex rel. Feeney v. Bd. Canvassers*, 156 N. Y. 39.)

Erasures, cancellations, etc., invalidate ballots. — Marks apparently made by voter in attempting to correct his errors, such as after making the cross mark in the circle or in the voting space endeavoring to erase them with a rubber or some sharp instrument or in other cases by striking the pencil through the marks so as to erase them, render the ballot invalid and no vote therein can be lawfully counted. (*People ex rel. Feeney v. Bd. Canvassers*, 156 N. Y. 39.)

A ballot furnished by the state is not a marked ballot within the law, because of any irregularity in making it up or printing it. (*People ex rel. Hirsh v. Wood*, 148 N. Y. 142; 14 Misc. Rep. 377.)

If an elector in voting a split ticket does not place his mark in the voting space and opposite the name of the candidate voted for, according to the strict letter of the election code, his ballot cannot be counted. (*People ex rel. Wells v. Collin*, 19 App. Div. 457; 46 N. Y. Supp. 701; *Peo-*

ple ex rel. Nichols v. County Canvassers of Onondaga, 129 N. Y. 395; *People ex rel. Onondaga Savings Bk. v. Butler*, 147 N. Y. 164.)

A voter of a split ticket must place his "cross (X) mark" in the "voting space" before the name of his candidate. If he places the mark before the name but without the "voting space" the ballot is void. (*Wells v. Collin*, 19 App. Div. 457.)

A ballot on which the cross mark is not placed in the "voting space" is not entitled to be counted. (*People v. Common Council of the City of Elmira*, 19 App. Div. 457.)

A ballot containing in a circle at the head of one column a number of criss cross pencil marks, consisting of three perpendicular lines and three or four horizontal lines crossing the perpendicular lines is void under the provisions of this section providing that "a void ballot is a ballot upon which there shall be found any mark other than a single (X) mark made for the purpose of voting," etc. (*Thacher v. Lent*, 71 App. Div. 483; 75 N. Y. Supp. 732.)

Subdivision 3. **Method of counting.**—The method of counting shall be as follows: The straight ballots, that is, the ballots on which all the candidates on one party ticket and no others are voted for shall be separated from the split ballots and counted, and the number of straight party votes for each candidate shall be entered in gross opposite his name on each tally sheet by the poll clerk keeping the same. The chairman of the board shall then take the split ballots separately, and announce the vote for each candidate on each such ballot, in the order of the offices printed thereon, and each poll clerk shall make an accurate tally of the same. As the votes on each split ballot are counted, such ballot shall be passed to the other inspectors for verification. The poll clerks shall then add together all the votes for each candidate and the ballots wholly blank and void together with the ballots on which no votes were counted for any candidate for such office, and shall enter the sum thereof in the proper column on the tally sheet. As soon as the count is completed for each office, the poll clerks shall submit the result to the inspectors for examination, and if found to be correct, the chairman shall at once announce the result. When a ballot is not void and an inspector of election or other election officer or duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot the words "objected to because marked for identification," and shall specify over their signatures upon the back thereof the mark or marking upon such ballot to which objection is made. The votes upon each such ballot shall be counted by them, as if not so objected to. If requested by any watcher the inspectors shall, during the canvass, exhibit any and all ballots cast at such election or town meeting to such

watcher, fully opened, and in such a condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand. Any person who shall place upon any ballot taken from the ballot box any mark or marking, or who shall tear or deface such ballot with the intent of causing such ballot to be rejected as void, shall be guilty of a felony, and shall be punished upon conviction therefor by imprisonment in a state prison for a period not less than five nor more than ten years. In cities of the first class the chairman of the board of inspectors shall, forthwith upon the completion of the count of votes, and the announcement thereof, deliver to the police officer on duty at such place of canvass a statement subscribed by the board of inspectors, stating the number of votes received by each candidate for office. Such statement shall forthwith be conveyed by the said officer to the station-house of the police precinct in which such place of canvass is located, and he shall deliver the same inviolate to the officer in command thereof, who shall immediately transmit by telegraph, telephone or messenger, the contents of such statement to the officer commanding the police department of such city. Such statement shall be preserved for six months by the police, and shall be presumptive evidence of the result of such canvass for each such office. (*Thus amended by chap. 335, L. 1898.*)

Ballots incorrectly numbered are "marked ballots" within the statute, and should not be received by the board of inspectors. But once received and placed in the box, with the stubs containing the numbers torn off, they should be counted. (*People ex rel. Bradshaw v. Bidelman*, 69 Hun, 596.)

Secrecy is the idea at the foundation of the ballot law, and any construction which would permit the ballots to be counted that would reveal the way the voter using them voted should be avoided as contrary to the true policy and intent of the law. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

Ballots wrong as to form in that they contain more candidates for a certain office than there are persons to be elected to such office, shall be regarded and treated as valid, although unofficial ballots. But votes cast by the use of such ballots for more candidates than should be voted for cannot be counted, because they fail to express the elector's choice for the office, and if there is one ballot cast only containing the proper number of candidates for an office, such ballot shall be counted and the officers thereby voted for declared elected. (*Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444.)

The eligibility of a person voted for cannot be decided by inspectors of election; their duty is to count the votes cast for any and every person whose name appears upon a ballot printed and indorsed as the law directs. (*People ex rel. Bradley v. Shaw*, 45 N. Y. St. Repr. 533.)

Prior to the legislation of 1890, ballots could be counted for candidates for whom they were cast, though they did not in all respects correspond with the direction of the statute, and after deposited in the box could not be rejected in any case by the canvassers if the intent of the voters was sufficiently expressed. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

An imperfect cross mark in the circle at the head of the party column will not vitiate the vote. (*People ex rel. Boutel v. Morgan*, 20 App. Div. 48; 46 N. Y. Supp. 898.)

Where a cross with no name after it is put in the blank column intended for persons not formally nominated, it cannot be accredited to the person whose name is in the next column on the left. (*People ex rel. Boutel v. Morgan*, 20 App. Div. 48; 46 N. Y. Supp. 898.)

Power to reject votes.—The power given to canvassers to reject ballots is strongly condemned in *People ex rel. Feeney v. Bd. of Canvassers*, 23 App. Div. 201.

No power to reject ballots marked for identification.—A canvassing board has no power to reject ballots which are marked for identification, and a mandamus will not lie to require them to do so. (*In re Kline*, 17 Misc. 672.)

When the objection to ballots as marked for identification is not raised during the canvass, a mandamus will not lie to compel the inspectors to reconvene and recount the ballots. The remedy left open is by *quo warranto*, or by the determination of the board to which an officer is declared elected by the canvass objected to. (*People ex rel. Clark v. Earley*, 16 Misc. Rep. 603.)

Boards of inspectors of election have no power conferred upon them to correct frauds or rectify mistakes, except clerical ones. Their duty is simply to count the ballots actually in the box at the close of the polls. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Repr. 738.)

Inspectors are liable in damages for refusing to perform any of the acts required by the statute in relation to ballots objected to as marked for identification. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

A single inspector cannot indorse upon a ballot an objection raised subsequently to the canvass that it was marked for identification. (*People ex rel. Bush v. Board*, 66 Hun, 265.)

Where but one legal vote was cast for a candidate for an office required by law to be filled at that election, such candidate was rightfully declared elected, though not regularly nominated, and his name not printed on the official ballot. (*Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444.)

The very purpose of voting is that the ballot may show the voter's

choice, and when he names more than the limited number of candidates to be voted for, it is impossible to determine which of the number he prefers. (*Montgomery v. O'Dell*, 51 N. Y. St. Repr. 444; *People v. Loomis*, 8 Wend. 396; *People v. Seaman*, 5 Den. 409; *People v. Ames*, 19 How. Pr. 551.)

Canvassers must reject and treat as void all ballots found in the box, prepared for and bearing the designation and number of another and a different polling place or election district than the one where the ballot was cast. (*People ex rel. Nichols v. Board of Canvassers*, 120 N. Y. 395, 408.)

Crossmarks in circle.—An elector made a crossmark in each circle at the head of the democratic, republican and socialist-labor party, and also made a crossmark in the voting spaces before the names of candidates on both the democratic and republican tickets, but not on the socialist-labor ticket; it was held that the crossmark in the circle at the head of the socialist-labor ticket made the ballot void. (*Matter of Holmes*, 30 Misc. 127; 61 N. Y. Supp. 775.)

As to void marks in circle, see *People ex rel. Obert v. Bourke*, 30 Misc. 461; 63 N. Y. Supp. 906.

§ III. Original statement of canvass and certified copies.—

Upon the completion of the canvass, the board of inspectors of election shall make and sign an original statement thereof showing the kind of election, the date when held; the number of the election district; the town or ward, and the city and country in which it was held, on the first page or pages of which there shall be return of the ballots voted, following which there shall be a separate return for each office of the votes cast for each candidate therefor in the form prescribed for such returns and statement in section eighty-four of the election law. At the end of the last detailed statement of votes cast for candidates, they shall add a statement of the number of general ballots protested as "marked for identification," which ballots shall be indorsed by the inspectors "protested as marked for identification," specifying the mark or marking to which objection is made over their signatures, and all of which shall be counted for the several candidates voted for thereon. The inspectors shall also make as a part of their original statement a return of the number of void ballots rejected by them, and on such ballots no vote can be counted for any candidate. Each such ballot so declared void by the inspectors shall be indorsed upon the back thereof with the specific reason for such rejection. Such void ballots shall, together with the ballots which were protested as being marked for identification be secured in a separate sealed package, which shall be indorsed on the outside thereof with the names of the inspectors, the designation of the election district, and the number and kinds of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. If ballots are voted on any constitutional amendment, proposition or question, a similar return of the ballots and votes cast thereon

shall be made and included as a part of such original statement. Such inspectors shall, whenever unofficial ballots are voted, return all of such ballots in the package with the void and protested ballots. At the end of each return contained in such original statement of the canvass, and also at the bottom of each sheet, or half sheet thereof, the inspectors shall make and sign a certificate that the foregoing statement is correct. If any inspector, poll clerk or ballot clerk shall refuse to sign any return required of him by the election law he must state the grounds upon which such refusal is based upon such return over his signature. Unless such an election be an election of town, village or school officers, held at a different time from a general election, such inspectors shall forthwith and before adjourning and taking any recess make two certified copies of such original certified statement of the result of the canvass. Forthwith upon the completion of such original statement and of such certified copies thereof, and the proclamation of the result of the election as to each candidate, the ballots voted, except the void and protested ballots, shall be replaced in the box from which they were taken, together with a statement as to the number of such ballots so replaced. Each such box shall be securely locked and sealed, and shall be deposited with the officer or board furnishing such boxes. They shall be preserved inviolate for six months after such election and may be opened and their contents examined upon the order of the supreme court or a justice thereof, or a county judge of such county, and at the expiration of such time the ballots may be disposed of in the discretion of the officer or board having charge of them.

[For Form for Inspectors' Return and Statement of Canvass, see Forms at end of article.]

False returns.—"An inspector or poll clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony," (§ 41n, *Penal Code*.)

An erasure or alteration visible upon the face of a statement of canvass will not create the presumption of fraud. Election returns are documents of a public nature, and in the absence of proof that they have been fraudulently tampered with will be received as evidence in courts of justice. (*People ex rel. Stone v. Minck*, 21 N. Y. 539.)

A new statement of canvass cannot be made by the inspectors after the completion and filing of the original statement. Boards of inspectors cannot thus review their own acts. (*People ex rel. Russell v. Board*, 46 Hun, 390.)

Where two inspectors signed the statement of canvass and two refused to sign, and the questions of fraud raised were never finally determined by legal proceedings, there was no election. (*People ex rel. Woods v. Crissey*, 91 N. Y. 616.)

Inspectors having made a canvass cannot be compelled or permitted to make a new one. (*People ex rel. Fiske v. Devermann*, 83 Hun, 81.)

The signing of a statement in blank in advance of the canvass is wrong and irregular, but if, by the consent and action of the canvassers, the statement is filled up with the result agreed upon by all of their number, the statement becomes effective. (*People ex rel. Fiske v. Devermann*, 83 Hun, 81.)

If inspectors of election indorse on the return their reasons for not signing the same, they cannot be proceeded against to show cause why they did not do so. (*In re Election of Alderman of First Ward of City of Buffalo*, 49 N. Y. Supp. 241.)

When inspectors of election have made and signed their statement they are discharged, and cannot afterwards indorse ballots and affix them to the statement. (*Supm. Ct., Sp. T.*, 1896. *Matter of Kline*, 17 Misc. 672; 40 N. Y. Supp. 600; *People ex rel. Bush v. County Canvassers of Ulster*, 66 Hun, 265; *People ex rel. Gaige v. Reardon*, 40 Hun, 425.)

Where the copy of the statements of inspectors of election certifies a different number of votes from that in the tally sheet, they must correct the same under the election law. (*In re Stewart*, 48 N. Y. Supp. 957.)

Canvass at town election.—Mandamus will issue, in favor of any person aggrieved, against a board of canvassers at a town election, requiring such board to reconvene and publicly take from the ballot box ballots rejected as void, and endorse on each of such ballots the specific reason for its rejection, and then to place such ballots in a separate package, sealed and endorsed as required by the above section. (*People ex rel. Maxim v. Ward*, 62 App. Div. 531.)

§ 112. **Proclamation of result.**—Upon the completion of such canvass and of the original statement and certified copies of the result thereof, the chairman of the board of inspectors shall make public oral proclamation of the whole number of votes cast at such election at such polling place for all candidates for each office; upon each proposed constitutional amendment or other question or proposition, if any, voted upon at such election, the whole number of votes given for each person, with the title of the office for which he was named on the ballot; and the whole number of votes given respectively for and against each proposed constitutional amendment or other question or proposition if any, so submitted. The original statement of canvass and the certified copies thereof shall be securely and separately sealed with sealing wax in an envelope properly indorsed on the outside thereof by the inspectors,

and shall be kept inviolate by the officers or board with whom they are filed until delivered, together with the sealed packages of void and protested ballots, to the county or city board of canvassers.

[For Form for Proclamation, see Forms at end of article.]

§ 113. Delivery and filing of papers relating to the election.—

Subdivision 1. If the election be other than an election of town, city, village or school officers, held at a different time from a general election, the chairman of the board of inspectors of each election district, except in the city of New York, shall forthwith upon the completion of such certified original statement of the result, deliver one certified copy thereof to the supervisor of the town in which the election, if outside of a city, is situated, and if in a city, to one of the supervisors of said city. If there be no supervisor, or he be absent or unable to attend the meeting of the county board of canvassers, such certified copy shall be forthwith delivered to an assessor of such town or city. One certified copy of such original statement of the result of the canvass, the poll books of such election, and one of the tally sheets, shall be forthwith filed by such inspectors, or by one of them deputed for that purpose, with the town clerk of such town, or the city clerk of such city, as the case may be. The original certified statement of the result of the canvass, with the original ballot returned, prepared by the ballot clerk, attached, the sealed package of void and protested ballots, the record as to challenged and assisted voters, and the sealed packages of detached stubs and unvoted ballots, and one of the tally sheets shall, within twenty-four hours after the completion of such canvass, be filed by the chairman of the board of inspectors, with the county clerk of the county in which the election district is situated. The register of electors and public copy thereof shall be filed as prescribed in section thirty-five of this act.

Subdivision 2. In the city of New York the original statement of canvass and the sealed package of void and protested ballots shall be filed by the chairman of the board of inspectors within twenty-four hours after the completion of the canvass with the county clerk of the county within which the election district is located, together with one of the poll books and one of the tally sheets, properly certified by the poll clerks. One certified copy

of such original statement, one poll book and one tally sheet shall be filed within such time with the board of elections and with the chief clerk of the branch office of the board of elections, as the case may be, in the borough within which the election district is located by an inspector designated by the board of inspectors for that duty, and the other certified copy of such original statement with the city clerk, by an inspector designated by the board of inspectors for that duty. In election districts in the city of New York, the boards of inspectors of election must, at the same time they make and sign the aforesaid original statement and certified copies thereof, make a certified copy of so much thereof as relates to any candidate for member of assembly, senator or representative in congress, voted for in said election district, and also in any part of any county not within the city of New York, and such certified copy must, within twenty-four hours after the completion of the canvass by the inspectors, be filed by the chairman of the board of inspectors, with the clerk of the county outside of the city of New York of which such officers or any of them are voted for at such election. The sealed packages or detached stubs, and ballots not used at the election shall, in the city of New York, be given by the inspectors to the police who shall return them to the bureau of elections of the borough within which the election district is located. All such packages of detached stubs and unused ballots shall be preserved inviolate in the office in which they are filed, for a period of six months from the time of filing thereof, and may be opened and examined upon the order of the supreme court or a justice thereof, or a county judge within such county, or by a committee of the legislature, and at the expiration of such time may be disposed of in the discretion of the officer or board having custody of the same. (*Thus amended by chap. 95, L. 1901.*)

Subdivision 3. In the election districts within the metropolitan elections district the certified copy of the original statement of canvass, the tally sheet and poll book required to be filed with the town or city clerk under subdivision one of this section and the certified copy of the original statement of canvass required to be filed with the city clerk of the city of New York, the poll book and tally sheet required to be filed with the superintendent of elections of such city and with the chief of the branch bureaus of elections within such city under subdivision two of this section, shall

be forthwith filed by such officers in the office of the state superintendent of elections for the metropolitan elections district. (*Added by chap. 630, L. 1899.*)

Mandamus will lie to compel inspectors of election to perform their official duties in relation to the making and filing of true copies of the original statement of canvass. Where one such copy is incorrect, the inspectors may be compelled to file a correct one. (*Gleason v. Blanc*, 14 Misc. Rep. 620. See § 113, *Election Law*.)

§ 114. **Judicial investigation of ballots.**—If any certified original statement of the result of the canvass in an election district shall show that any of the ballots counted at an election therein were objected to as marked for identification, a writ of mandamus may, upon the application of any candidate voted for at such election in such district, within twenty days thereafter, issue out of the supreme court to the board or body of canvassers, if any, of the return of the inspectors of such election district, and otherwise to the inspectors of election making such statement requiring a recount of the votes of such ballots. If the court shall, in the proceedings upon such writ, determine that any such ballot was marked for the purpose of identification, the court shall order such ballot and the votes thereon to be excluded upon a recount of such votes. A like writ may in the same manner be issued to determine whether any ballot and the votes thereon which has been rejected by the inspectors as void, shall be counted. If in the proceedings upon such writ the court shall determine that the votes upon any such ballot rejected as void shall be counted, the court shall order such ballot and the votes thereon to be counted upon a recount of such votes. Boards of inspectors of election districts, and boards of canvassers, shall continue in office for the purpose of such proceedings.

An alternative writ of mandamus should be procured so that disputed facts can be settled before the peremptory writ issues. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

A writ of peremptory mandamus is proper to compel votes for an office omitted to be named upon an official ballot to be counted when written upon the ballot. (*People ex rel. Goring v. President*, 144 N. Y. 616.)

The courts must determine in the mandamus proceeding whether, under the circumstances of the particular case, there has been such a substantial compliance with the statute as will enable the candidate complaining of marked ballots to maintain the proceeding. Inspectors cannot

defeat the mandamus proceeding by failing to write their names on the ballots or to make the required statement. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

An election will not be nullified in toto by the casting and counting of marked ballots. Such ballot will be thrown out as void, but will not operate to render void the ballots that were regular and in accordance with the provisions of the statute. (*People ex rel. Bradshaw v. Bidelman*, 69 Hun, 596.)

A statement of canvass or certificate of election is only prima facie evidence of the title of the persons therein declared elected to the offices therein mentioned. In all cases where the proceeding is by *quo warranto* or in an action of that nature, it is held that such proceeding is instituted to try the right to the office directly, and it is competent to go behind the certificate or statement, which would otherwise be conclusive, to ascertain the real facts of the case. (*People v. Pease*, 27 N. Y. 45; *People v. Seaman*, 5 Den. 409; *People v. Ferguson*, 8 Cow. 102; *People v. Van Slyck*, 4 id. 297; *People v. Vail*, 20 Wend. 12.)

The intent of the voter will be effectuated as far as possible by the court's ruling as to the counting or discarding of votes. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401.)

Unless objection is made during the canvass to a ballot as marked for identification the inspectors are not required to so indorse it nor return it with their statement of canvass. A *peremptory* writ of mandamus will not issue compelling the board to so indorse the ballot upon an objection made subsequent to the canvass, but an *alternative* writ will issue in order that the fact of the validity of the ballot may be tried. (*People ex rel. Bush v. Board*, 66 Hun, 265.)

That an objection to a ballot was not raised during the canvass of the votes will not preclude the court from subsequently considering such objection. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

Every inspector must sign the certificate containing a statement of canvass required by law. He cannot refuse to do so on the ground that he knows or believes that votes were cast by persons who had no right to cast them. If such persons have taken the required oaths the inspectors must receive the votes, and a mandamus will issue compelling them to sign the returns. (*People ex rel. Stapleton v. Bell*, 119 N. Y. 175.)

Whether a ballot is or is not a marked ballot is an open question to be determined as an issue of fact by the court. (*People ex rel. Hasbrouck v. Supervisors*, 135 N. Y. 522.)

Inspectors must count all ballots whether objected to or not, and in a proceeding to obtain a writ of mandamus compelling them so to do, the question as to whether the ballots were marked for identification cannot be raised. (*People ex rel. Bradley v. Shaw*, 133 N. Y. 493.)

There is nothing for the inspectors to do except to count the ballots in the box. They are prohibited from receiving any having any mar-

on the outside or not properly indorsed, and if anything appears on the inside of the ballot not authorized by law they must preserve such ballot; then those interested have ample opportunity to deliberately investigate the matter, and after such investigation, if they think proper, present it to the court for its determination. (*People ex rel. Bradley v. Shaw*, 45 N. Y. St. Repr. 533.)

Where inspectors have canvassed the votes, and fraud or mistake other than clerical is afterwards shown, the remedy is not by mandamus to compel them to recount the votes, but by *quo warranto* after certificates of election have been granted to the candidates declared elected. (*People ex rel. Gaige v. Reardon*, 49 Hun, 425, overruling *People v. Board*, 64 How. 201.)

The remedy for frauds and mistakes other than clerical is by proper proceedings in court or before the board or body, to membership in which the person aggrieved is a candidate, where that board or body has the power conferred upon it to determine the qualifications and election of its own members. Mandamus is not such a proper proceeding in court. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Repr. 738.)

An irregularity on the part of the inspectors in not complying with the law in making and filing their returns cannot be availed of by one who does not show himself to have been injured thereby. (*People ex rel. Hatsel v. Board*, 58 How. 141.)

A county court has no power to order a recount of ballots, nor power to appoint a referee to supervise the recount and to decide as to the validity of ballots. (*Matter of Tompkins*, 23 App. Div. 224.)

Where the returns do not agree with the tally sheet the courts can require by mandamus that the inspectors be summoned before the board of county canvassers and be compelled to amend their returns by inserting in them the results as shown by the tally sheets. (*Matter of Stewart*, 24 App. Div. 117.)

A peremptory mandamus will not be granted where a material issue is raised. (*In re Kline*, 17 Misc. 672.)

A mandamus will not be granted to compel a board of canvassers to reconvene and recount the ballots cast at an election, and allow certain ballots rejected by them, where it appears that such ballots were not objected to or marked by the inspectors for identification, or attached to the statement of canvass. (*People ex rel. Clark v. Earley*, 16 Misc. 603.)

Certiorari does not lie to review the acts of an election board in receiving votes, and announcing the result as they are not judicial in character. (*People v. Austin*, 46 N. Y. Supp. 526.)

The alternative writ of mandamus delegates to the board of inspectors the whole matter of recanvassing the ballots, with no specific directions as to how such recanvass is to be conducted, beyond the direction that they are to follow the language of the statute. (*People ex rel. Phillips v. Sutherland*, 9 App. Div. 313.)

A ballot box will not be opened by order of the court except for

the purpose of aiding a criminal prosecution, or in a civil action or proceeding, where the court may make a decision that will bind the rights of the parties and the public. (*Supm. Ct., Sp. T., 1896. Matter of Election of Member of Assembly for First District, Erie County, 18 Misc. 391.*)

A candidate will not be allowed to inspect split ballots on plea that such ballots cast for his opponent had been credited to himself, and that those cast for him had been counted to another. (*Ib.*)

FORMS FOR ELECTION LAW, ARTICLE 5.

FORM No. 33.

(See § 104, subd. 2, Election Law.)

Oath to be taken by election officers before opening of the polls.

(See § 108, page 128.)

STATE OF NEW YORK, }
COUNTY OF , } ss.:

I do solemnly swear (or affirm) that I will not in any manner request or seek to persuade, or induce any voter to vote any particular ticket or for any particular candidate, and that I will not keep or make any memoranda or entry of anything occurring within a voting booth, and that I will not directly or indirectly reveal to any person the name of any candidate voted for by any voter, or which ticket he has voted, or anything occurring within the voting booth except I be called upon to testify in a judicial proceeding for a violation of the election law.

Subscribed and sworn to before me }
this , day of , 189 . }

The above oath should be taken before a notary public or other officer authorized to administer oaths.

It would seem to be good practice if the same should be filed in the office of the town or city clerk as evidence of the fact that the statute has been complied with.

FORM No. 34.

(See § 100, Election Law.)

Proclamation of opening the polls.

Hear ye! hear ye! hear ye! The polls of this election is opened, and all persons attending the same are strictly charged and commanded, by the authority and in the name of the people of this state, to keep the peace thereof during their attendance at this election on pain of imprisonment. And all persons are desired to take notice that the polls will be closed at five o'clock in the afternoon.

FORM No. 35.

(See § 102, Election Law.)

Certificate of appointment of watchers.

At a meeting of the committee of the party (or independent body), a political party (or independent body), which has duly filed certificates of nominations of candidates to be filled at the

election to be held _____, 189____, the following named persons, _____ and _____, were, by virtue of the powers given to the said political organization (or independent) body by section 102 of the election law appointed watchers to attend the polling places in the _____ election district of the town (or ward) of _____, in the county of _____.

Witness, the signature of the president (or chairman) and the secretary of the _____ committee of said political party (or independent body) this day of _____, 189____.

President (or Chairman).

Secretary.

FORM No. 36.

(See § 103, subd. 2, Election Law.)

Form of ballot return to be prepared by the ballot clerks, and attached to the original statement of canvass made by the inspectors and to each copy, in compliance with subdivision two of section one hundred and three of the election law.

1. The number of full sets of official ballots furnished to election district number (five) of the (town of Canandaigua) county of (Ontario), were 800
2. The number of sets of official ballots canceled before delivery to voters by reason of one or more of the set being found defective in printing or mutilated, all of which were destroyed by us, were. 5
3. The number of sets of official ballots spoiled and returned by voters, all of which were destroyed by us, were 10
4. The number of sets of official ballots returned to the county clerk or other officer, unused, were 300
5. The number of sets of official ballots actually voted, were 485
6. Total sets of official ballots accounted for are 800
7. The number of sets of detached stubs were 500
8. The number of sets of stubs on unused ballots were 300
9. The total sets of stubs accounted for are 800

We hereby certify that the foregoing ballot return for election district number (five) of the (town of Canandaigua), county of (Ontario), for the election held November (5th, 1895), is correct.

(Signed.)

Ballot Clerks.

CONDUCT OF ELECTIONS AND CANVASS OF VOTES—FORMS. 147

FORM No. 37.

(See § 103, subd. 3, Election Law.)

Poll list. Sample of alphabetical page.

Number of electors.	NAME OF ELECTORS.	Residence of electors.	Number on ballot delivered to electors.			No. on ballot voted.	Remarks.
			First set.	Second set.	Third set.		
1	Adams, John.	4000 Swan st...	4	....	....	4	Challenged
2	Anthony, Smith J.	Albany.....	60	86	...	86	
3	Andrews, Wm....	369 State st....	100	....	....	100	Blind, as-
4	Archer, Frank J..	736 Madison av.	160	....	....	160	sisted by

(Upon the close of the polls the poll list to be delivered to the chairman of board of inspectors.)

FORM No. 38.

(See § 104, subd. 2, Election Law.)

Oath to be administered to illiterate voter.—You do solemnly swear (or affirm) that you are unable to prepare your ballot without assistance because you are unable to write by reason of illiteracy.

FORM No. 39.

(See § 104, subd. 2, Election Law.)

Oath to be administered to disabled voters.—1. You do solemnly swear (or affirm) that you will be unable to prepare your ballot without assistance, because (Insert specific disease or crippled condition).

Illustrating HOW TO VOTE A SPLIT VOTE.

Make a cross (X) mark in the circular space above the name of a party some of whose candidates you desire to vote for, and then make a cross (X) mark before the name of any candidate of any other party for whom you may desire to vote.

[illegible]

FORM No. 42.

(See § 108, Election Law.)

Questions under preliminary oath.

1. What is your name?
2. What is your age?
3. Where do you reside? State as precisely as you are able the particular locality of your place of residence.
4. How long have you resided in this election district?
5. What was your last place of residence before you came into this election district?
6. How long have you resided in this county?
7. How long have you resided in this state?
8. Are you a native or naturalized citizen?
If a naturalized citizen.
9. When were you naturalized?
10. Where and in what court, or before what officer.
11. How long have you resided in the United States?
12. Did you come into this election district for the purpose of voting at the next ensuing election?
13. How long do you contemplate residing in this election district?
14. Have you made any bet or wager, or are you directly or indirectly interested in any bet or wager depending on the result of the next ensuing election?
15. Have you received, or offered to receive, or do you expect to receive, any money or other valuable thing as a compensation or reward for giving your vote at the next ensuing election?
16. Have you paid, offered or promised to pay, contributed, offered or promised to contribute, to another, to be paid or used, any money or other valuable thing, or made any promise, to influence the giving or withholding of any vote at the next ensuing election?
17. Have you been convicted of bribery or of any infamous crime, or, if convicted, have you been pardoned and restored to all the rights of citizenship?

In addition, such other questions may be asked which may tend to test the qualifications of the person offering to vote as a resident of the election district, citizenship and right to vote at such polling place.

FORM No. 43.

(See § 108, Election Law.)

General oath on challenge.

" If the person so offering to vote, shall persist in his claim to vote, and the challenge shall not be withdrawn, one of the inspectors shall then administer to him the following oath: ' You do swear (or affirm) that you are twenty-one years of age, that you have been a citizen of the Unit

tes for ninety days, and an inhabitant of this state for one year next preceding this election, and for the last four months a resident of this county, and for thirty days a resident of this election district, and that you have not voted at this election.'

'If the person so offering to vote shall be challenged for causes stated in section two of article two of the constitution of this state the following additional oath shall be administered by one of the inspectors: 'You do swear (or affirm) that you have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at this election, and have not made any promise to influence the giving or withholding of any such vote; and that you have not made, become directly or indirectly interested in any bet or wager depending on the result of this election.'

'If the person so offering shall be challenged on the ground of having been convicted of bribery or any infamous crime, the following additional oath shall be administered to him by one of the inspectors: 'You do swear (or affirm) that you have not been convicted of bribery or any infamous crime, or if so convicted, that you have been pardoned and restored to all the rights of a citizen.'

"If any person shall refuse to take either oath so tendered, his vote shall be rejected." (§ 108, *Election Law*.)

FORM No. 44.

(See §§ 104 and 106, *Election Law*.)

Blank for the report of assisted and challenged electors.

Three blank statements in the following form shall also be furnished to each board of inspectors, which shall, at the close of the election, be filled out, and one original statement shall be attached to the original return, and a copy thereof to each copy of the original return:

The names of persons who were challenged, and the challenge not withdrawn, were _____, in all, three (3)

The names of persons who received assistance on account of physical disability, were _____, in all, five (5)

The names of persons who received assistance on account of being unable to write by reason of illiteracy, were _____, in all, two (2)

We certify the foregoing statement is correct.

Dated this (fifth) day of November, 1895.

Board of Inspectors.

* Under the heading of paragraph 1, should be stated whether the person challenged took a preliminary or general oath or both.

FORM No. 45.

(See § 111, Election Law.)

Sample.

Inspectors' returns and statement of canvass.—*Original* official statement of the result of a (general) election, held on the (fifth) day of November (1895), in the (fifth) election district of the (town of Canandaigua), county of (Ontario), state of New York, made by the inspectors of election in and for said district, which return is made as provided in section one hundred and eleven of the election law.

RETURN OF BALLOTS VOTED.

- | | |
|---|-----|
| 1. The whole number of general ballots actually voted, as verified by the return of the ballot clerks attached hereto were (four hundred and eighty-five) | 485 |
| 2. The number of general ballots cast and found to be entirely blank, all of which were returned by us to the ballot box were (five) | 5 |
| 3. The number of general ballots cast which were rejected by us as "void" and on which no vote was counted for any candidate, all of which are in the sealed package returned herewith, and on each of which ballot is indorsed the reason for such rejection, were (ten) | 10 |
| 4. The number of general ballots cast on which votes were counted for one or more candidates, all of which were returned to the ballot box (except those protested as being marked for identification), were (four hundred and seventy) | 470 |
| 5. The total number of ballots accounted for by us are | 485 |

We certify the foregoing statement of ballots voted is correct in all respects.

Dated this (fifth) day of November (1895).

Board of Inspectors.

Statement and return of the votes for the offices of electors for president and vice-president.*

- | | |
|---|-----|
| 1. The number of ballots cast on which votes were counted for any candidate for office, were four hundred and seventy | 470 |
| 2. The number of ballots cast and counted on which there was no vote for the office of elector of president and vice-president, were nineteen | 19 |
| 3. The whole number of ballots on which votes were counted for the office of elector of president and vice-president, were four hundred and fifty-one | 451 |

* Inspectors will note the addition of paragraph 4 incorporated in statement of return of votes for presidential electors used in addition to the form of headings used for offices where only one candidate is nominated by each party for an office. The same wording should be used for all offices where two or more candidates are nominated by the same party for the same office under one office heading.

4. The whole number of votes counted upon such ballots for the office of elector of president and vice-president were thirty-seven hundred and forty-one	3,741
5. Of which George E. Moulton received three hundred and five	305
6. Benjamin F. Blair received three hundred and four	304
7. Clarence Van Deusen received three hundred and four	304
8. Samuel Andrews received three hundred and three	303
9. Charles Spicer received three hundred and three	303
10. Harry Taylor received three hundred and three	303
11. William Halloran received three hundred and three	303
12. J. Wesley Hamer received three hundred and three	303
13. Jacob W. Essegger received one hundred and sixty-five	165
14. Charles J. Edwards received one hundred and sixty-four	164
15. Melvin A. Rice received one hundred and sixty-four	164
16. George Sandhusen received one hundred and sixty-four	164
17. Calvin W. Withey received one hundred and sixty-four	164
18. Horatio Alderson received one hundred and sixty-four	164
19. Michael Byrnes received one hundred and sixty-four	164
20. David Hawey received one hundred and sixty-four	164
Total	<u>3,741</u>

Statement and return of the votes for the office of (governor).

1. The number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (governor) were (five)	5
3. The whole number of ballots on which votes were counted for the office of (governor) were (four hundred and sixty-five)	<u>465</u>
4. Of which (Levi P. Morton) received (three hundred)	300
5. (David B. Hill) received (one hundred and sixty-five)	165
Total	<u>465</u>

Statement and return of the votes for the office of (lieutenant-governor).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of (lieutenant-governor) were (seven)	7
3. The whole number of ballots on which votes were counted for the office of (lieutenant-governor) were (four hundred and sixty-three)	<u>463</u>
4. Of which (Charles T. Saxton) received (three hundred and three)	303
5. (William F. Sheehan) received (one hundred and sixty)	160
Total	<u>463</u>

Statement and return of the votes for the office of (county clerk).

1. The whole number of ballots cast on which votes were counted for any candidate for office were (four hundred and seventy) . . .	470
2. The number of ballots cast and counted on which there was no vote for the office of (county clerk) were (ten)	10
3. The whole number of ballots on which votes were counted for the office of (county clerk) were (four hundred and sixty) . . .	460
4. Of which (John Doe) received (three hundred and fifteen)	315
5. (Richard Doe) received (one hundred and forty-five)	145
Total	460

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three) 3

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.

Dated this (fifth) day of November, 1895.

Board of Inspectors.

NOTE.—A similar certificate is to be made at the bottom of each sheet or half sheet of this return. If ballots are voted or any constitutional amendment or question or proposition submitted, a similar return is to be included. Two certified copies of the original statement and return are to be made.

FORM No. 46.

(See § 112, Election Law.)

Proclamation of result.

"Hear ye! hear ye!! hear ye!!! The whole number of votes given for the office of (governor), found in the box just canvassed, was (1090); of which number there were given for said office, for Roswell P. Flower (595), for Jacob Sloat Fassett (362), for Joseph W. Bruce (153)," (naming each person voted for, for the office of governor, and the number of votes given for him for that office).

"The whole number of votes given for the office of lieutenant-governor, found in the same box, was . . . ; of which there were given for that office, for William F. Sheehan, . . . , for John W. Vrooman . . ." Proceed on with the votes given for the different candidates.

ARTICLE VI.**County and State Board of Canvassers.**

- SECTION 130.** Organization of county board of canvassers.
- 131. Production of original statements and copies thereof.
 - 132. Correction of clerical errors in election district statements.
 - 133. Correction in state or county board of canvassers' statement.
 - 134. Proceeding of state board of canvassers upon corrected statement.
 - 135. Statement of canvass by county boards.
 - 136. Decisions of county boards as to persons elected.
 - 137. Transmission of statements of county boards to secretary of state.
 - 138. Organization of state board of canvassers.
 - 139. Canvass by state board.
 - 140. Certificates of election.
 - 141. Record in office of secretary of state of county officers elected.

§ 130. Organization of county board of canvassers. — The board of supervisors of each county shall be the county board of canvassers of such county. The county board of canvassers of the counties wholly or partly within The City of New York shall be the city board of canvassers of The City of New York within their respective counties. The county board of canvassers of a county containing a city of the second class shall be the city board of canvassers of such city. The county board of canvassers of the respective counties shall meet at the office of the county clerk thereof on the Tuesday next after each election of public officers held in such county other than an election of town, city, village or district school officers held at a different time from a general election. Upon such meeting they shall choose one of their number chairman of such board. Such county clerk, or if he be absent or unable to act, the deputy county clerk of such county, shall be the secretary of such board. The secretary of the board shall thereupon administer the constitutional oath of office to the chairman of the board, who shall then administer such oath to each member, and to the secretary of the board. A majority of the members of any board of canvassers shall con-

stitute a quorum thereof. If, on the day fixed for such meeting, a majority of any such board shall not attend, the members of the board then present shall elect the chairman of the board and adjourn to some convenient hour of the next day. If such board, or a majority thereof, shall fail or neglect to meet within two days after the time fixed for organizing such board, the supreme court, or any justice thereof, or county judge within such county, may compel the members thereof by writ of mandamus to meet and organize forthwith. (*Thus amended by chap. 208, L. 1901.*)

If the county clerk do not appear and if his deputy be also absent, the board has power to appoint a secretary in their place to perform the duties which appertain to that office. The same is true, if the county clerk shall be present but refuse to perform his duties. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

§ 131. Production of original statements and copies thereof.—As soon as such board of county canvassers shall have been organized, the officer with which they were filed, shall deliver to such board of canvassers all the original statements of canvass received from inspectors of election for districts within the county for which said board are county or city canvassers. The copies of the original statements which have been delivered to members of the board of assessors shall then be delivered to the board. If any member of the county board of canvassers shall be unable to attend the first meeting of such board, he shall, at or before such meeting, cause to be delivered to the secretary of such board all such copies of original statements delivered to him, and any original statement that may have come into his possession. If, at the first meeting of a county board of canvassers of any county, all such original statements of the result of the canvass of the votes cast at such election in all the election districts in the county shall not be produced before the board, it shall

adjourn to some convenient hour of the same or the next day, and the secretary of such board shall, by special messenger or otherwise, obtain such missing original statements, if possible, otherwise he shall procure one of the certified copies thereof in time to be produced before such board at its next meeting. At such first meeting, or as soon as an original statement of the result of the canvas of the votes cast at such election in every election district of the county shall be produced before such board, or a copy thereof, in case the original can not be produced, the board shall, from such original statements and certified copies, proceed to canvass the votes cast in such county at such election. (*Thus amended by chap. 379, L. 1897.*)

It is clearly the intention of the statute that the official statement made after and in accordance with the proclamation of the result of the canvass, which is required to be certified to as correct over the signatures of the inspectors, shall form the basis of the estimate of the board of canvassers. (*Matter of Noyes*, 34 N. Y. St. Repr. 127.)

The county board cannot estimate the number of votes cast from the sample ballots attached to the inspectors' certificates instead of from the face of the return. (*People ex rel. Noyes v. Board*, 34 N. Y. St. Repr. 8; *Matter of Noyes*, id. 127; *People ex rel. Noyes v. Board*, 126 N. Y. 392.) It should be noted that the present law does not require sample ballots to be attached to the returns made by the inspectors.

The court cannot compel the county board of canvassers to change the returns of a general election so as to show separately the number of votes cast for the office of governor in the name of and under the emblem of the political party whose candidate for the office was the same as that of another political party, in order that it shall appear from the returns filed in the office of the secretary of state whether or not such first mentioned political party polled ten thousand votes for state officers at such election, and is thus entitled to make its nominations for the next year by convention. (*People ex rel. Boies v. Board of Canvassers*, 79 App. Div. 514.)

§ 132. Correction of clerical errors in election district statements.—If, upon proceeding to canvass such votes, it shall clearly appear to any county board of canvassers that certain matters are omitted from any such statement or copy, which should have been inserted, or that any merely clerical mistakes exists therein, they shall have power, and such power is hereby given, to summon the inspectors of election whose names are subscribed thereto, before such board, and such inspectors shall forthwith meet and make such correction as the facts of the case require; but such inspectors shall not change or alter any decision before made

by them, but shall only cause their canvass to be correctly stated. The board of county canvassers may adjourn from day to day not exceeding three days in all, for the purpose of obtaining and receiving such corrected statements.

The statute as to counting and certifying the votes of electors of various offices is very plain and concise and local inspectors must count the votes they receive and certify them. The county canvassing boards must, upon those returns, declare the result. They have power to have corrected clerical errors made by local boards, or send for complete returns under the statute, but the power is nowhere given in the statute to a canvassing board to reject any vote that comes to it certified in due form by the local inspectors as having been cast at the election. (*Matter of Woods*, 5 Misc. Rep. 575.)

A mandamus will lie to compel the county board to send back to the inspectors for correction returns upon which the names of candidates are incorrectly given or misspelled. (*People ex rel. Munro v. Board*, 129 N. Y. 469.)

Returns may be sent back to the inspectors for correction in case of a clerical error but not for a recount. (*People ex rel. Noyes v. Board*, 126 N. Y. 392; *People ex rel. Fiske v. Devermann*, 83 Hun, 181.)

Boards of canvassers have no power conferred upon them to correct frauds or rectify mistakes, except clerical ones. Their duty is simply to add together the statements of results filed with them by inspectors. (*People ex rel. Blodgett v. Board*, 44 N. Y. St. Rep. 738.)

The board of county canvassers has only ministerial and not judicial duties to perform and cannot enter upon a judicial investigation to ascertain the genuineness of a return which the law required to be returned to it. Such return is favored by the presumption of official honesty and regularity. If the returns are not regular, the board should send them back to the inspectors for correction. (*People ex rel. Russell v. Board*, 46 Hun, 390; *People ex rel. Noyes v. Board*, 34 N. Y. St. Rep. 8; *Matter of Noyes*, id. 127; *People ex rel. Noyes v. Board*, 126 N. Y. 392; *People v. Cook*, 8 id. 67; *People ex rel. Deuchler v. Board*, 64 How. 337; *Matter of Felt*, 11 Abb. [N. S.] 207; *People v. Van Slyck*, 4 How. 297; *Ex parte Heath*, 3 Hill, 42; *Kutz v. Canvassers*, 12 Abb. N. C. 84.)

A writ of mandamus will issue to compel the canvassing board to send back to the inspectors, for correction, returns which do not show upon their face that any particular person received any votes whatsoever, and which do not contain a statement of the number of general ballots protested as "marked for identification." (*People ex rel. Ranton v. City of Syracuse*, 88 Hun, 203.)

Where it does not clearly appear that a clerical error exists in the returns of a canvass, an application to the court to have it corrected will be refused. (*In re Election of Alderman of First Ward, City of Buffalo*, 49 N. Y. Supp. 241.)

Inspectors of election cannot correct any other than clerical errors in the return of a canvass. (*In re Election of Alderman of First Ward, of City of Buffalo*, 49 N. Y. Supp. 241.)

§ 133. Correction in state or county board of canvassers' statements.—The supreme court may, upon affidavit presented by any elector, showing that errors have occurred in

any statement or determination made by the state board of canvassers, or by any board of county canvassers, or that any such board has failed to act in conformity to law, make an order requiring such board to correct such errors, or perform its duty in the manner prescribed by law, or show cause why such correction should not be made or such duty performed. If such board shall fail or neglect to make such correction, or perform such duty, or show cause as aforesaid, the court may compel such board, by writ of mandamus, to correct such errors or perform such duty; and if it shall have made its determination and dissolved, to reconvene for the purpose of making such corrections or performing such duty. Such meeting of the board of state or county canvassers shall be deemed a continuation of its regular session, for the purpose of making such corrections, or otherwise acting as the court may order, and the statements and certificates shall be made and filed as the court shall direct, and shall stand in lieu of the original certificates and statements so far as they shall vary therefrom, and shall in all places be treated with the same effect as if such corrected statement has been a part of the original required by law. A special proceeding authorized by this section must be commenced within four months after the statement or determination in which it is claimed errors have occurred was made, or within four months after it was the duty of the board to act in the particular or particulars as to which it is claimed to have failed to perform its duty.

A **mandamus** will not lie to compel the board of county canvassers to canvass the returns before them when it is proven to the court that such returns are illegal because of a violation of the statute by the inspectors in receiving and counting certain votes. (*People ex rel. Munro v. Board*, 129 N. Y. 469.)

A **mandamus** is proper directing the board of county canvassers not to canvass irregular returns. (*People ex rel. Russell v. Board*, 46 Hun, 390.)

This section in effect re-enacts chapter 460 of the Laws of 1880, heretofore repealed, authorizing the supreme court in proceedings by writ of mandamus to correct errors in the determination of boards of county canvassers and to compel them to reconvene and declare a truthful result of the returns before them. (*People v. Canvassers*, 64 How. 201, 367, 357, 334; *Kutz v. Canvassers*, 12 Abb. N. C. 84; *People ex rel. Noyes v. Board*, 34 N. Y. St. Repr. 8; *Matter of Noyes*, id. 127; *People ex rel. Noyes v.*

Board, 126 N. Y. 392). But see *People v. Supervisors* (12 Barb. 217), holding that a mandamus will not lie to compel the board of canvassers after it has performed its duties and has adjourned *sine die* to reassemble and correct its decision.

The Supreme Court at Special Term cannot issue a writ of peremptory mandamus which is by force of its terms and commands, in effect, an order which restrains the board of state canvassers engaged in the performance of, or about to perform, a duty imposed by the statute. (Code Civ. Pro. § 605; *People ex rel. Derby v. Rice*, 129 N. Y. 461.)

Where an official board acts only ministerially the court has a clear right to direct its ministerial action. (*Matter of Noyes*, 43 N. Y. St. Repr. 127.)

The county board is merely an administrative body.—It cannot exercise the high judicial function of passing upon the constitutionality of a statute. Nor will the court direct the board to do what they have no power in themselves to do, but must confine itself to correcting errors they may have made. (*Matter of Woods*, 5 Misc. Rep. 575.)

For the settlement of contests over elections courts exist, with adequate powers to investigate the causes of complaints, and for that end to take proofs and to judge accordingly. Boards of canvassers have no such powers. (*People ex rel. Derby v. Rice*, 129 N. Y. 461.)

The court has no power to interfere by mandamus with the canvassing of returns regular upon their face by the county board when it is simply alleged that fraud has been committed in the counting of votes by the inspectors. If there were two returns, one true and the other false, the court might compel the board to canvass the true one. (*People ex rel. Gregg v. Board*, 54 Hun, 595.)

Until the legal presumption is overcome that state officers will perform their statutory duties, a peremptory mandamus will not lie. (*People ex rel. Derby v. Rice*, 129 N. Y. 461.)

The question whether fraud has been committed in making the returns cannot be properly tried in a proceeding to compel the board of county canvassers to canvass the returns. This question can only be tried in a contest before the proper tribunal. (*People ex rel. Hatsel v. Board*, 58 How. 141.)

The court should not permit to be canvassed by the state board a return containing the result of an illegal and erroneous canvass by the board of county canvassers in excess of its jurisdiction. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

The public has an interest, quite as great, perhaps, as an individual candidate, in the result of an election, and any citizen has the right to invoke the aid of the court in compelling boards of canvassers to perform their official duties. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

A peremptory writ of mandamus is proper to compel the board of canvassers to reject a second return. (*People ex rel. Fiske v. Devermann*, 83 Hun, 81.)

134. Proceeding of state board of canvassers upon corrected statements.— When a new or corrected statement or certificate made by a board of county canvassers, under the provisions of the preceding section, shall vary from the original statement or certificate with reference to votes for the offices of governor, lieutenant-governor, judge of the court of appeals, justice of the supreme court, secretary of state, comptroller, state treasurer, attorney-general, state engineer and surveyor, senator or representative in congress, or either of them, the county clerk, or other officer with whom the same is filed, shall forthwith prepare and transmit certified copies thereof to the officials mentioned in section one hundred and thirty-seven of this act, in the manner therein prescribed. The secretary of state shall thereupon file in his office the certified statement received by him, and obtain from the governor and comptroller the certified statements received by them, or either of them, and file the same in his office.

He shall then, and within five days after any such certified copy of statements has been received by him, appoint a meeting of the state canvassers to be held at his office, or at the office of the state treasurer or comptroller, and the said board of state canvassers shall, from such certified copies or statements, proceed to make a new statement of the whole number of votes given at the election referred to in such statement for the various offices above mentioned, or either of them, so far as the number of votes for any particular office or candidate has been changed by such new or corrected statements in the manner provided by section one hundred and thirty-nine of this act. Upon the new or corrected statement thus made, the said board of state canvassers shall then proceed to determine and declare what person or persons whose votes are affected by such new or corrected statement have been, by the greatest number of persons, duly elected to the various offices, or either of them, by the statement, certificate and declaration thereupon made. The same shall stand in lieu of the original statement, declaration and certificate so far as the latter are changed by the new statement. The supreme court shall, upon application of a candidate interested in the result of such new or corrected state-

ment, or of any elector in the county from which such statement came, and upon proof by affidavit that the same has been made and filed as herein provided, and that the state board of canvassers has neglected or refused to act thereon within the time above prescribed, require said board to act upon such new or corrected statement, and canvass the same as above provided, or show cause why it should not do so; and in the event of the failure of such board to act upon such new or corrected statement and canvass the same, or show cause as aforesaid, the court may compel such board by writ of mandamus to act upon and canvass such new or corrected statement, and make a statement, certificate and declaration in accordance therewith; and if the state board of canvassers shall have made a determination, and adjourned or dissolved before receiving such new or corrected statement, the court may compel such board to reconvene for the purpose of carrying out its order and direction; and for that purpose the meeting of said board shall be deemed a continuance of its regular session. The state board of canvassers and the secretary of state shall respectively have the same powers, and discharge the same duties with reference to statements made under this section, that they have and are charged with under the provisions of section one hundred and thirty-nine, and one hundred and forty, of this act.

§ 135. **Statements of canvass by county boards.**—Upon the completion by a county board of canvassers, of the canvass of votes of which original statements of canvass, or certified copies thereof, are by law required to be delivered to them, by the boards of officers with whom the same may have been filed by the inspectors of election, they shall make separate statements thereof as follows:

1. One statement of all such votes cast for each office of elector of president and vice-president of the United States.
2. One statement of all such votes cast for each state office.
3. One statement of all such votes cast for each office of representative in congress, except that the board of canvassers in the

county of New York shall not make a statement of the votes cast in any election district in said county, for any candidate for the office of assemblymen, senator or representative in congress, the candidates for which were also voted for by electors in election districts in any county not within The City of New York.

4. One statement as to all such votes cast upon every proposed constitutional amendment or other proposition or question duly submitted to all the electors of the state.

5. One statement as to all the votes cast for all and each of the candidates for each office of member of assembly for which the electors of such county or any portion thereof, except as provided in the paragraphs numbered three in this section, were entitled to vote at such election.

6. One statement as to all the votes cast for each county office, and office of school commissioner, for which the electors of such county, or any portion thereof, were entitled to vote at such election, and to be canvassed by them.

7. One statement as to all the votes, if any, so cast upon any proposition or question upon which only the electors of such county were entitled to vote at such election.

8. In the counties wholly or partly within The City of New York, the respective county boards shall make a separate statement as to the votes, if any, so cast upon any proposition or question upon which only the electors of such city were entitled to vote at such election in such county or portion thereof. Each such statement shall set forth, in words written out at length, all such votes cast for all the candidates for each such office; and if any such office was to be filled at such election by the electors of any portion only of such county all the votes cast for all the candidates for each office in any such portion of the county, designating by its proper district number or other appropriate designation, the names of each such candidate and the number of votes cast for each, the whole number of votes so cast upon any proposed constitutional amendment or other proposition or question, and of all the votes so cast in favor of and against the same respectively. In the counties wholly or partly within The City of New York the respective county boards shall make a separate

statement of the votes cast for all the city offices voted for by the electors of such city or any portion thereof, within such counties. If, upon such canvass, in any original statement or duly certified copy of an original statement of the result of the canvass of the votes of any election district in such county or city, there shall be included any ballot indorsed by the inspectors to the effect that it was objected to as marked for identification, the county and city boards of canvassers shall add to each statement in which the counting of any such ballot or any portion thereof is included, a statement of the whole number of ballots so indorsed and counted. If, upon such canvass, in any original statement or duly certified copy of an original statement of the result of the canvass of the votes of any election district there shall be included any ballot indorsed by the inspectors to the effect that it was rejected as void, the county and city boards of canvassers shall add to each statement, a statement of the whole number of ballots so indorsed. The statements required by this section shall each be certified as correct over the signatures of the members of the board, or a majority of them, and shall be filed and recorded in the office of the county clerk of such county. When the whole canvass shall be completed, the original statements of canvass and certified copies used thereat shall be filed in the office of the secretary of the board. The certified copies of such original statement of canvass not used at the canvass and the sealed packages of void and protested ballots shall be retained in the office in which or by the officer with whom they were filed. The sealed packages of void and protested ballots shall be retained inviolate in the office in which they are filed subject to the order and examination of a court of competent jurisdiction and may be destroyed at the end of six months from the time of the completion of such canvass, unless otherwise ordered by a court of competent jurisdiction. (*Thus amended by chap. 379, L. 1897.*)

The statements of the county boards cannot lawfully contain anything save the whole number of votes given in each town and district, the names of the candidates and the number of votes given to each. (*People ex rel. Derby v. Rice*, 129 N. Y. 461.)

was held in *People ex rel. Daley v. Rice* (129 N. Y. 449) that where county clerk, acting as secretary to the board of county canvassers, is required to sign and attest the statements of canvass prepared by them, of their number could be appointed by the board to perform such duty. But it should be noticed that the present law does not require the county clerk to sign the statements. The signatures of a majority of the board of canvassers only is necessary.

Congressional election.—Under the above section the court may order inspection of the void and protested ballots for congressmen, before a meeting instituted to determine the question as to the legality of the election of the ballots, and before a formal congressional contest. (*Mat- of Van Cott*, 34 Misc. 411; 69 N. Y. Supp. 934.)

136. Decisions of county board as to persons elected.—On the completion of the statements required by section one hundred and thirty-five of this act the board of canvassers for each county shall determine what person has by the greatest number of votes been so elected to each office of member of assembly to be filled by the electors of each county for which there are county canvassers if constituting one assembly district, or in each assembly district therein, if there be more than one, and what person elected by the greatest number of votes to each office of such county to be filled at such election, and if there be more than one school commissioner district in such county, each person elected by the greatest number of votes to each office of school commissioner to be filled at such election in each such district. The county clerk of the county of Hamilton shall forthwith transmit to the county clerk of the county of Fulton a certified copy of the statement so filed and record it in his office, of the county board of canvassers of Hamilton county, as well as all the votes so cast in Hamilton county for all the candidates for each of the candidates for the office of member of assembly of the assembly district composed of Fulton and Hamilton counties; and the county clerk of Fulton county shall forthwith deliver the same to the Fulton county board of canvassers, who shall, from such certified copy, and from their own statement as to the votes so cast for such office in Fulton county, determine what person was at such election, elected by the greatest number of votes to such office. Such board of each county shall determine whether any proposition or question submitted to the electors of such county only, has by the greatest number of votes been adopted or rejected. All such determinations shall be reduced to writing, and signed by the members of such board, or a majority of them, and filed and recorded in the office of the county clerk of

such county, who shall cause a copy thereof, and of the statements filed and recorded in his office, upon which such determination was based, to be published in accordance with the provisions of sections twenty-one and twenty-two of the county law. The clerk of each county shall prepare as many certified copies of each certificate of the determination of the county board of canvassers of such county as there are persons declared elected in such certificate, and shall, without delay, transmit such copies to the persons therein declared to be elected, respectively. (*Thus amended by chap. 379, L. 1897.*)

Canvass of votes cast for persons of similar names. A board of county canvassers cannot determine that the votes cast for several somewhat similar names were all intended for the same person, and from the result thus reached issue a certificate of election to him, but they should certify separately the separate names and issue the certificate of election to the one entitled thereto on the face of the return. (*People ex rel. Kathan v. County Board of Canvassers*, 75 App. Div. 110; 77 N. Y. Supp. 620.)

§ 137. **Transmission of statements of county boards to secretary of state and board of elections.**—Upon the filing in the office of the county clerk of a statement of the county board of canvassers as to the votes cast for candidates for the offices of electors of president and vice-president, or as to the votes cast for candidates for state officers, except member of assembly and for representatives in congress, or as to the votes cast on any proposed constitutional amendment or other proposition or question submitted to all the electors of the state, such county clerk shall forthwith make three certified copies of each such statement, and, within five days after the filing thereof in his office, transmit by mail one of such copies to the secretary of state, one to the governor and one to the comptroller of the state. The governor and comptroller shall forthwith upon the receipt thereof by them deliver such certified copies to the secretary of state. If any certified copy shall not be received by the secretary of state on or before the last day of November next after a general election, or within twenty days after a special election, he shall dispatch a special messenger to obtain such certified copy from the county clerk required to transmit the same, and such county clerk shall immediately upon demand of such messenger at his office make and deliver such a certified copy to such messenger who shall, as soon as practicable, deliver it to the secretary of state. The county clerk of each county shall transmit to the secretary of state, within twenty days after a general election, and within ten days after a special election, a list of the name and resi-

dence of each person determined by the board of county canvassers of such county to be elected member of assembly, school commissioner, and to any county office; and on or before the fifteenth day of December in each year a certified tabulated statement of the official canvass of the votes cast in each such county by election districts at the last preceding general election. The secretary of state shall obtain from the governor and comptroller such certified copies so transmitted to them and file the same in his office. Upon the filing in the office of the county clerk of a county wholly or partly within the city of New York of a statement of the county board of canvassers as to the votes cast for candidates for a city office within such city such county clerk shall forthwith make a certified copy of each such statement and, within five days after the filing thereof in his office, deliver in a sealed envelope such certified copy to the board of elections of the city of New York; on or before the fifteenth day of December in any year in which there shall have been an election for a city office for which votes were cast in a county within the city of New York the county clerk thereof shall file with the city clerk of such city a certified copy of the official canvass of the votes cast in such county or portion thereof by election districts for such city office and such canvass by election districts shall, as soon as possible thereafter, be published in the City Record. (*Thus amended by chap. 95, L. 1901.*)

If the county clerk fails or refuses to send certified copies of the statements of county boards to the secretary of state and other state officers the county board may cause statements attested by one of their number acting as secretary *pro tempore* to be transmitted, and such statements shall be filed and considered by the board of state canvassers as the properly certified result of the canvass of the board of county canvassers. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

§ 138. Organization and duties of board of canvassers of the city of New York.—The board of elections of The City of New York shall be the board of canvassers of The City of New York of the statements of the county board of canvassers of the counties within such city of the votes cast in such city or any portion thereof for a city office or upon any proposition or question upon which only electors of such city were entitled to vote. The members of the board of elections shall meet at the usual place for holding their regular meeting of such body on the first Monday in December succeeding a general election for a city office within such city and within thirty days after such special election and shall organize by selecting one of the members as chairman. The secretary of the board of elections of The City of New York shall be the secretary of such board or if he be unable

to serve the board may appoint a chief clerk to be the secretary of such board. The secretary shall thereupon administer to the chairman the constitutional oath of office and the chairman shall administer such oath to the members of such board and the secretary thereof. As soon as such board shall have organized the secretary shall deliver to such board the certified copies of the statements of the county boards of canvassers of each county wholly or partly within such city of the votes cast for candidates for city office within such city and upon any proposition or question, if any submitted, to the electors of such city only and the said board shall proceed to canvass such statements. If a certified copy of any statement of any county board required to be delivered to said board shall not be delivered prior to the meeting and organization of said board, it may adjourn such meeting from day to day not exceeding a term of five days and it shall be the duty of the secretary to procure from the county clerk of such county the required certified copy of such statement. Upon the completion of such canvass said board shall make separate tabulated statements signed by the members of such board or a majority thereof, and attested by the secretary, of the whole number of votes cast for all the candidates for each office shown by such certified statements to have been voted for and of the whole number of votes cast for each of such candidates, indicating the number of votes cast in each county for them, and if the voters of not more than one county or portion of such county were entitled to vote for such candidates, the name and portion of such county and the name of each candidate, and the determination of the board of the persons thereby elected to such office by the greatest number of votes. The said board shall also make a separate similar tabulated statement of the votes cast upon any proposition or question submitted at the election to the electors of such city only and shall include a determination as to whether such proposition or question by the greatest number of votes has been adopted or rejected. Each such statement and determination shall be filed and recorded in the office of the board of elections and the said board shall cause the publication of the same in at least two newspapers within each borough of such city and in the City Record. Upon the filing in the office of the board of elections of such statements and determination the president of the board of elections shall issue and transmit by mail or otherwise a certificate of election to each person shown thereby to be elected, such certificate to be countersigned by the members of the board of elections of The City of New York under the seal of The City of New York. (*Thus amended by chap. 95, L. 1901.*)

The duties of the county clerk are purely ministerial.—He, acting as secretary to the board of county canvassers, cannot sit in judgment upon the action of that body. The statements which the board actually makes it is the duty of the secretary to attest, and the law casts upon him neither the obligation nor the responsibility of seeing that the board has discharged its duty in a manner consistent with his views of the law. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

The board of canvassers have no power to reject any vote that comes to it certified in due form by the inspectors of election. (*In re Election of Alderman of First Ward, City of Buffalo*, 49 N. Y. Supp. 241.)

Where the votes cast for the office of alderman in an aldermanic district of the city of New York have been canvassed by the board of elections in accordance with an order of the Supreme Court, directing it to count certain ballots which had been rejected as void, such canvass, when completed finally, determines the question as to what ballots should, and what ballots should not, be counted for such office, subject to a review of the court in a proper action brought to determine the title to the office of the candidate declared elected. When such board has issued its certificate of election to the person entitled thereto, such person's right to the office cannot be questioned by the board of aldermen. (*People ex rel. Kruish v. Fornes*, 79 App. Div. 618.)

§ 139. **Organization of state board of canvassers.**—The secretary of state, attorney-general, comptroller, state engineer and surveyor, and treasurer, shall constitute the state board of canvassers, three of whom shall be a quorum. If three of such officers shall not attend on a day duly appointed for a meeting of the board, the secretary of state shall forthwith notify the mayor and recorder of the city of Albany to attend such meeting, and they shall forthwith attend accordingly, and shall, with the other such officers attending, constitute such board. The secretary of state shall appoint a meeting of such board at his office, or at the office of the treasurer or comptroller on or before the fifteenth day of December next after each general election, and within forty days after each special election, to canvass the statement of boards of county canvassers of such election. He shall notify each member of the board of such meeting. The board may adjourn such meeting from day to day, not exceeding a term of five days.

§ 140. **Canvass by state board.**—Such board shall at such meeting proceed to canvass the certified copies of the statements of the county board of canvassers of each county in which such election was held. If any member of such board shall dissent from a decision of the board, or shall deem any of the acts or proceedings of the board to be irregular, and shall protest against the same, he shall state such dissent or protest in writing signed by him, setting forth his reasons therefor, and deliver it to the secretary of state, who shall file it in his office. Upon the completion of such canvass, such board shall make separate tabulated statements signed by the members of such board, or a majority thereof, of the whole number of votes cast for all the candidates for each office shown by such certified copies to have been voted for, and of the whole number of votes cast for each of such candidates, indicating the number of votes cast in each county therefor,

and if the voters of not more than one district of the state were entitled to vote for such candidates therefor, the name and number of such district, and the name of each candidate and the determination of the board of the persons thereby elected to such office; the whole number of votes shown by such certified copies to have been cast upon each proposed constitutional amendment or other proposition or question shown by such copies to have been voted upon, the whole number of votes cast in favor of and against each, respectively, and the determination of the board as to whether it was adopted or rejected. Each such statement, dissent and protest, shall be delivered to the secretary of state, and recorded in his office.

The state board cannot inquire into the manner of making the county board's return. (*People ex rel. Daley v. Rice*, 129 N. Y. 449.)

The legislature has not clothed either the state officers or the subordinate boards of inspectors, with power to hear and determine, by the means of evidence aliunde the return, the intention of the voters. (*People v. Cook*, 8 N. Y. 67.)

The office of the state board of canvassers is purely ministerial.—There is no latitude afforded by the law for any determination by such board outside of the official returns which the statute prescribes as the duty of the county canvassers to make and file. (*People ex rel. Derby v. Rice*, 129 N. Y. 461; *People ex rel. Sherwood v. Board*, id. 360.)

The state board cannot consider in making its canvass other papers or affidavits than the returns regularly laid before them by the county boards. But a mandamus will not issue to compel the secretary of state to refrain from placing before them such other papers or to compel him to return them to the county canvassers. (*People ex rel. Sherwood v. Rice*, 129 N. Y. 391.)

The state board cannot inquire into the eligibility of a candidate who has received votes for an office as shown upon the returns before them. But a mandamus will not issue to compel them to deliver a certificate of election to such a person if it clearly appear to the court that he is ineligible. (*People ex rel. Sherwood v. Board*, 129 N. Y. 360.)

§ 141. **Certificates of election.**—The secretary of state shall thereupon forthwith transmit a copy, certified by his signature and official seal, of each such statement as to votes cast for candidates for any office, to the person shown thereby to have been elected thereto. He shall prepare a general certificate, under the seal of this state, and attested by him as secretary thereof, addressed to the house of representatives of the

United States, in that congress for which any person shall have been chosen, of a due election of the person so chosen at each election as representative of this state in congress; and shall transmit the same to the house of representatives at their first meeting. If either of the persons so chosen at such election shall have been elected to supply a vacancy in the office of representative in congress, it shall be mentioned by the secretary of state in the statements to be prepared by him.

§ 142. Record in office of secretary of state of county officers elected.—The secretary of state shall enter in a book to be kept in his office the names of the respective county officers elected in this state, including school commissioners, specifying the counties and districts for which they were severally elected, and their places of residence, the offices to which they were respectively elected, and the terms of office.

* ARTICLE VII.

Voting Machines.

SECTION 160. State voting machine commissioners.

161. Examination of voting machine.
162. Requirements of voting machine.
163. Adoption of voting machine.
164. Experimental use of voting machine.
165. Providing machines.
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173. Opening the polls; independent ballots.
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179. Disposition of independent ballots; and preserving the record of the machine.
180. Application of other articles and penal code.
181. When ballot clerks not to be elected.
182. Number of voters in election districts.
183. Definitions.
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§ 160. State voting machine commissioners.—The commissioners appointed under chapter four hundred and fifty of the laws of eighteen hundred and ninety-seven are continued in office until and including December thirty-first, nineteen hundred and two, and shall be known as voting machine commissioners. Their successors shall be appointed for a full term of five years. Vacancies shall be filled by the governor for the remainder of the unexpired term, and all terms shall expire on the thirty-first day of December. Any commissioner now in office or hereafter appointed may be removed at the pleasure of the governor. No voting machine commissioner shall have any pecuniary interest

* Added by chap. 466, Laws 1899.

in any voting machine. There shall be three such commissioners, who shall constitute a board to be known as the state board of voting machine commissioners. One of such commissioners shall be an expert in patent law and two shall be mechanical experts.

§ 161. **Examination of voting machines.**—Any person or corporation owning or being interested in any voting machine may apply to the state board of voting machine commissioners to examine such machine and report on its accuracy, efficiency and capacity to register the will of voters. The commissioners shall examine the machine and report accordingly. Their report shall be filed in the office of the secretary of state and shall state whether in their opinion the kind of machine so examined can be safely used by such voters at elections, under the conditions prescribed in this article. If the report states that the machine can be so used, it shall be deemed approved by the commissioners and machines of its kind may be adopted for use at elections as herein provided. When the machine has been so approved, any improvement or change that does not impair its accuracy, efficiency or capacity shall not render necessary a re-examination or reapproval thereof. Any form of voting machine not so approved, or which has not been heretofore examined by said commissioners and reported on pursuant to law, and its use specifically authorized by law, cannot be used at any election. Each commissioner is entitled to one hundred and fifty dollars for his compensation and expenses in making such examination and report, to be paid by the person or corporation applying for such examination. (*Thus amended by chap. 530, L. 1901.*)

§ 162. **Requirements of voting machine.**—A voting machine approved by the state board of voting machine commissioners may be so constructed as to provide facilities for voting for the candidates of at least seven different parties or organizations. It must be provided with a single straight ticket device for each of said parties, by the use of which a voter may vote for all the candidates of that party, and must permit a voter to vote for any person for any office, whether or not nominated as a candidate by any party or organization, and must permit voting in absolute secrecy. Such machine shall also be so constructed that a voter cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote. It must also be so constructed as to prohibit voting for more than one person for the same office, except where a voter is lawfully entitled to vote for more than one

person for that office, and it must afford him an opportunity to vote for as many persons for that office as he is by law entitled to vote for and no more, at the same time prohibiting his voting for the same person twice. It must be provided with a lock or locks, by the use of which immediately after the polls are closed or the operation of such machine for such election is completed any movement of the voting or registering mechanism is absolutely prohibited. It may also be provided with one ballot in each party column or row containing only the words "presidential electors" preceded by the party name, and a vote for such ballot shall operate as a vote for all the candidates of such party for presidential electors, and shall be counted as such. (*Thus amended by chap. 530, L. 1901.*)

§ 163. **Adoption of voting machine.**—The board of elections of the city of New York, the common council of any other city, the town board of any town, or the board of trustees of any village may adopt for use at elections any kind of voting machine approved by the state board of voting machine commissioners, or the use of which has been specifically authorized by law; and thereupon such voting machine may be used at any or all elections held in such city, town or village, or in any part thereof, for voting, registering and counting votes cast at such elections. Different voting machines may be adopted for different districts in the same city, town or village. (*Thus amended by chap. 530, L. 1901.*)

§ 164. **Experimental use of voting machine.**—The authorities of a city, town or village authorized by the last section to adopt a voting machine may provide for the experimental use, at an election in one or more districts, of a machine which it might lawfully adopt, without a formal adoption thereof; and its use at such elections shall be as valid for all purposes as if it had been lawfully adopted.

§ 165. **Providing machines.**—The local authorities adopting a voting machine shall, as soon as practicable thereafter, provide for each polling place one or more voting machines in complete working order, and shall thereafter preserve and keep them in repair, and shall have the custody thereof and of the furniture and equipment of the polling place when not in use at an election. If it shall be impracticable to supply each and every election district with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election district or districts within the city, town or village as the officers adopting the same may direct.

§ 166. **Payment for machines.**—The local authorities, on the adoption and purchase of a voting machine, may provide for the payment therefor in such manner as they may deem for the best interest of the locality and may for that purpose issue bonds, certificates of indebtedness or other obligations which shall be a charge on the city, town or village. Such bonds, certificates or other obligations may be issued with or without interest, payable at such time or times as the authorities may determine, but shall not be issued or sold at less than par.

§ 167. **Form of ballots.**—All ballots shall be printed in black ink on clear, white material of such size as will fit the ballot frame, and in plain, clear type as the space will reasonably permit. The party device for each political party represented on the machine, which has been duly adopted by such party in accordance with this chapter, and the party name or other designation shall be prefixed to the list of candidates of such party. Each party list may be further distinguished by a stripe of color below the party device, which shall be adopted in the same manner as the party emblems. The order of the list of candidates of the several parties or organizations shall be arranged as provided by this chapter for blanket ballots, except that the lists may be arranged in horizontal rows or vertical columns.

§ 168. **Sample ballots.**—The officers or board charged with the duty of providing ballots for any polling place shall provide therefor two sample ballots which shall be arranged in the form of a diagram showing the entire front of the voting machine as it will appear after the official ballots are arranged for voting on election day. Such sample ballots shall be opened to public inspection at such polling place during the day next preceding election day. (*Thus amended by chap. 530, L. 1901.*)

§ 169. **Number of official ballots.**—Four sets of ballots shall be provided for each polling place for each election for use in the voting machine.

§ 170. **Distribution of ballots and stationery.**—The ballots and stationery shall be delivered to the board of inspectors of each election district before ten o'clock in the forenoon of the day next preceding the election.

§ 171. **Tally sheets.**—Columns numbered two and three and the four columns at the right of the tally sheet prescribed by section eighty-four may be omitted in the printed blank tally sheets furnished for polling places at which a voting machine is used. The blank tally sheets and return shall in other respects conform substantially to the requirements of this chapter.

§ 172. **Unofficial ballots.**—If the official ballots for an election district at which a voting machine is to be used, required to be furnished by or to any town, or city clerk, or board, shall not be delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the clerk of such town or city, or such board, or the election inspectors of such district, shall cause other ballots to be prepared, printed or written, as nearly in the form of the official ballots as practicable, and the inspectors shall cause the ballots so substituted to be used at the election in the same manner, as near as may be, as the official ballot. Such ballots so substituted shall be known as unofficial ballots.

§ 173. **Opening the polls; independent ballots.**—The inspectors of election and poll clerks of each district shall meet at the polling place therein, at least three quarters of an hour before the time set for the opening of the polls at each election, and shall proceed to arrange within the guard rail the furniture, stationery and voting machine for the conduct of the election. The inspectors of election shall then and there have the voting machine, ballots and stationery required to be delivered to them for such election: and if it be an election at which registered voters only can vote, the registry of such electors required to be made and kept therefor. The inspectors shall thereupon cause at least two instruction cards, and if printed in different languages, at least two of each language to be posted conspicuously within the polling place. If not previously done, they shall insert in their proper place on the voting machine, the ballots containing the names of offices to be filled at such election, and the names of candidates nominated therefor. If not previously done, they shall place all the counters on each voting machine so as to register zero, and shall not permit such counters to be thereafter operated, except by electors in voting. Before the polls are open for election, each inspector shall carefully examine every counter

and see that it registers zero, and the same shall be subject to the inspection of the official watchers. Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are herein referred to as independent ballots. Where two or more persons are to be elected to the same office, and each candidate's name is placed upon or adjacent to a separate key or device, and the machine requires that all independent ballots voted for that office be deposited, written or affixed in or upon a single receptacle or device, an elector may vote in or by such receptacle or device for one or more persons whose names do not appear upon the machine with or without the names of one or more persons whose names do so appear. In voting for presidential electors, an elector may vote an independent ticket made up of the names of persons in nomination by different parties, or partially of names of persons so in nomination and partially of names of persons not in nomination, or wholly of names of persons not in nomination by any party. Such independent ballot shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose. With these exceptions, no independent ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any independent ballot so voted shall not be counted. An independent ballot must be cast in its appropriate place on the machine, or it shall be void and not counted. (*Thus amended by chap. 530, L. 1901.*)

§ 174. **Location of machines; guard-rail.**—The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers and watchers. The voting machine shall be placed at least three feet from every wall and partition of the polling place, and at least three feet from the guard-rail, and at least four feet from the poll clerk's table. A guard-rail shall be constructed at least three feet from the machine, with openings to admit electors to and from the machine.

§ 175. **Manner of voting.**—After the opening of the polls, the inspectors shall not allow any voter to pass within the guard-rail until they ascertain that he is duly entitled to vote. Only one voter at a time shall be permitted to pass within the guard-rail to vote. The operating of the voting machine by the elector while voting shall be secret and obscured from all other persons except as provided by this chapter in cases of voting by assisted electors. No voter shall remain within the voting machine booth longer than one minute, and if he shall refuse to leave it after the lapse of one minute, he shall be removed by the inspectors.

§ 176. **Instructing voter.**—In case any elector after entering the voting machine booth shall ask for further instructions con-

cerning the manner of voting, two inspectors of opposite political parties shall give such instructions to him; but no inspector or other election officer or person assisting an elector shall in any manner request, suggest or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question or proposition. After receiving such instructions, such elector shall vote as in the case of an unassisted voter.

§ 177. The provisions of subdivision three of section thirty-four, and of subdivision two of section one hundred and four of the election law, shall apply also when ballot machines are used, and the word "booth" when used in such sections, shall be interpreted to include the ballot machine enclosure or curtain.

§ 178. **Canvass of vote and proclamation of result.**—As soon as the polls of the election are closed, the inspectors of election thereat shall immediately lock the voting machine against voting, and open the counting compartments in the presence of the watchers and all other persons who may be lawfully within the polling place, giving full view of all the counter numbers. The chairman of the board of inspectors shall, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the result as shown by the counter numbers, and shall then read the votes recorded for each office on the independent ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition or other question. As soon as the result for each office and on each amendment, proposition or other question is ascertained, the poll clerks shall record it and submit their records to the inspectors for examination, and if found to be correct, the chairman shall at once announce the result of the vote for such office, or on such amendment, proposition or other question.

§ 179. **Disposition of independent ballots, and preserving the record of the machine.**—The inspectors of election shall, as soon as the count is completed and fully ascertained as in this act required, lock the machine against voting, and it shall so remain for the period of thirty days, except by the order of a court of competent jurisdiction. Whenever independent ballots have been voted, the inspectors shall return all of such ballots in

a properly secured sealed package endorsed "independent ballots," and file such package with the original statement of canvass. It shall be preserved for six months after such election, and may be opened and its contents examined only upon order of the supreme court or a justice thereof, or a county judge of such county, and at the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them. (*Thus amended by chap. 530, L. 1901.*)

§ 180. **Application of other articles and penal code.**—The provisions of the other articles of this chapter apply so far as practicable to voting by voting machines, except as herein provided. The provisions of the penal code and of this chapter relating to misconduct at elections shall apply to elections with voting machines.

§ 181. **When ballot clerks not to be elected.**—Ballot clerks shall not be elected or appointed for any district for which a voting machine shall have been adopted, and which will be supplied and ready for use at the next election to be held therein.

§ 182. **Number of voters in election districts.**—For any election in any city, town or village in which voting machines are to be used, the election districts in which such machines are to be used may be created by the officers charged with the duty of creating election districts, so as to contain as near as may be six hundred voters each. Such re-districting or re-division may be made at any time after any November election and on or before August fifteenth following, and when so made shall take effect immediately. Where such re-districting or re-division shall be made in any town, the board making the same shall, on or before September first following, appoint from the inspectors of election then in office—if sufficient therefor are then in office, and, if not, from persons not in office, sufficient to make up the requisite number—four inspectors of election for each election district thus created, two of whom shall belong to and be of the same political faith and opinion on state and national issues as one of the two political parties which at the last preceding general election for state officers shall have cast the greatest number of votes in said town, and the other two of whom shall belong to and be of the same political faith and opinion on state and national issues as the other of said two political parties. There-

after no redivision of such election districts shall be made for elections by such machines until at some general election the number of votes cast in one or more of such districts shall exceed seven hundred. But the town board of a town in which such machines are used may alter the boundaries of the election districts at any time after a general election and on or before August fifteenth following, provided that the number of such election districts in such town shall not be increased or reduced, and the number of votes to be cast in any district whose boundaries are so altered shall not exceed seven hundred. (*Thus amended by chap. 530, L. 1901, and chap. 122, L. 1903.*)

§ 183. **Definitions.**—The list of candidates used or to be used on the front of the voting machine shall be deemed official ballots under this chapter for an election district in which a voting machine is used pursuant to law. The word “ballot” as used in this article, (except when reference is made to independent ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate for office, or a statement of a proposed constitutional amendment, or other question or proposition with the word “for” or the word “against.”

§ 184. **Repeal of laws.**—Section forty of the town law as added by chapter eighty-two of the laws of eighteen hundred and ninety-three and renumbered by chapter four hundred and eighty-one of the laws of eighteen hundred and ninety-seven, chapter seven hundred and sixty-four of the laws of eighteen hundred and ninety-four, chapter seven hundred and sixty-five of the laws of eighteen hundred and ninety-four, chapter three hundred and thirty-nine of the laws of eighteen hundred and ninety-six, chapter four hundred and forty-nine of the laws of eighteen hundred and ninety-seven, chapter four hundred and fifty of the laws of eighteen hundred and ninety-seven, and chapter one hundred and sixty-eight of the laws of eighteen hundred and ninety-eight, and all acts amendatory of such acts, are hereby repealed; but such repeal shall not be deemed to prohibit the adoption or use of any voting machine at any election within any town, city or village that has adopted the same prior to the passage of this act, but the method of conducting an election therewith shall be in the manner prescribed by this chapter.

ARTICLE VIII

Electors of President and Vice-President, and Representatives in Congress

- SECTION** 190. Representatives in congress.
 191. Electors of president and vice-president.
 192. Meeting and organization of electoral college.
 193. Secretary of state to furnish list of electors.
 194. Vote of the electors.
 195. Appointment of messenger.
 196. Other lists to be furnished.
 197. Compensation of electors.
 198. Laws repealed.

§ 190. Representatives in congress.—Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in the year eighteen hundred and ninety-six and every second year thereafter. If any such representative shall resign, he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office, the clerk of the county in which such representative shall have resided at the time of his election, shall, without delay, transmit a notice thereof to the secretary of state.

Appointment of representatives between states is determined by prescribed rule based upon actual enumeration made every ten years, but the number of representatives shall not exceed one for every thirty thousand. (*See U. S. Const., art. 1, § 2.*)

Times, places and manner of election of representatives shall be prescribed in each state by the legislature thereof. (*See U. S. Const. art. 1, § 4.*)

General certificate of election.—Secretary of state to prepare certificate of election under seal of state and forward same to house of representatives of the United States in that congress for which any person shall have been chosen. (*See § 141, Election Law.*)

Congressional districts as established by chap. 295, Laws 1892. See Political Divisions of State, etc., *post*.

Qualification for office.—See page 303.

Vacancies in office.—"When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies." (*See § 2, art. 1, U. S. Const.*)

Special election to fill vacancies shall not be held to fill a vacancy in the office of a representative in congress unless such vacancy occurs on or before the first day of July of the last year of the term of office, or unless

it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year. (*See* § 4, *Election Law*.)

Resignations to be in writing and addressed to the secretary of state. (*See Pub. Off. Law*, § 21, p. 319.)

§ 191. **Electors of president and vice-president.**—At the general election in November, preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket as many electors of president and vice-president as this state shall be entitled to, and each elector in this state shall have a right to vote for the whole number, and the several persons to the number required to be chosen having the highest number of votes shall be declared and be duly appointed electors.

Appointment, number and qualifications.—Each state shall appoint in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States shall be appointed an elector. (*See U. S. Const. art. 2, § 1, subd. 2.*)

Certificates of appointment to be sent to secretary of state of the United States by the executive of each state. (*See chap. 90, U. S. Statutes* 1887.)

§ 192. **Meeting and organization of the electoral college.**—The electors of president and vice-president shall convene at the capital on the second Monday in January next following their election, and those of them who shall be assembled at twelve o'clock, noon, of that day, shall immediately at that hour fill by ballot, and by plurality of votes, all vacancies in the electoral college occasioned by death, refusal to serve or neglect to attend at that hour, of any elector, occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

Date of meeting fixed by chapter 90, U. S. Statutes of 1887.

Vacancies in office.—Each state may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. (*U. S. Rev. Statutes, 2d ed., § 133, p. 22*)

§ 193. **Secretary of state to furnish lists of electors.**—The secretary of state shall prepare three lists, setting forth the names of

such electors, and the canvass under the laws of this state, of the number of votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state canvassers; procure to the same the signature of the governor; affix thereto the seal of the state, and deliver the same thus signed and sealed to the president of the college of electors on the second Monday in January.

Similar provisions contained in chap. 90, U. S. Statutes 1887.

Lists and certificates to be transmitted at same time and in same manner as provided by law for transmitting by the electors to the seat of government the lists of all persons voted for as president and of all persons voted for as vice-president.

§ 194. Vote of the electors.—Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, they shall seal up the same, certifying thereon, that lists of the votes of this state for president and vice-president are contained therein.

Manner of voting prescribed by U. S. Constitution.—The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. (*See art. 12, § 1, U. S. Const.*)

Certificates to be made and signed.—The electors shall make and sign three certificates of all the votes given by them, each of which certificate shall contain two distinct lists, one of the votes for president, and the other of the votes for vice-president, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the state. (*U. S. Rev. Stat., 2d ed., § 138 p. 23.*)

it occurs thereafter and a special session of congress is called to meet before the next general election, or be called after October fourteenth of such year. (*See* § 4. *Election Law*.)

Resignations to be in writing and addressed to the secretary of state. (*See Pub. Off. Law*, § 21, p. 319.)

§ 191. **Electors of president and vice-president.**—At the general election in November, preceding the time fixed by the law of the United States for the choice of president and vice-president of the United States, there shall be elected by general ticket as many electors of president and vice-president as this state shall be entitled to, and each elector in this state shall have a right to vote for the whole number, and the several persons to the number required to be chosen having the highest number of votes shall be declared and be duly appointed electors.

Appointment, number and qualifications.—Each state shall appoint in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States shall be appointed an elector. (*See U. S. Const. art. 2, § 1, subd. 2.*)

Certificates of appointment to be sent to secretary of state of the United States by the executive of each state. (*See chap. 90, U. S. Statutes 1887.*)

§ 192. **Meeting and organization of the electoral college.**—The electors of president and vice-president shall convene at the capitol on the second Monday in January next following their election, and those of them who shall be assembled at twelve o'clock, noon, of that day, shall immediately at that hour fill by ballot, and by plurality of votes, all vacancies in the electoral college occasioned by death, refusal to serve or neglect to attend at that hour, of any elector, occasioned by an equal number of votes having been given for two or more candidates. The electoral college being thus completed, they shall then choose a president, and one or more secretaries from their own body.

Date of meeting fixed by chapter 90, U. S. Statutes of 1887.

Vacancies in office.—Each state may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. (*U. S. Rev. Statutes, 2d ed., § 133, p. 22.*)

§ 193. **Secretary of state to furnish lists of electors.**—The secretary of state shall prepare three lists, setting forth the names of

such electors, and the canvass under the laws of this state, of the number of votes given for each person for whose election any and all votes were given, together with the certificate of determination thereon, by the state canvassers; procure to the same the signature of the governor; affix thereto the seal of the state, and deliver the same thus signed and sealed to the president of the college of electors on the second Monday in January.

Similar provisions contained in chap. 90, U. S. Statutes 1887.

Lists and certificates to be transmitted at same time and in same manner as provided by law for transmitting by the electors to the seat of government the lists of all persons voted for as president and of all persons voted for as vice-president.

§ 194. Vote of the electors.—Immediately after the organization of the electoral college, the electors shall then and there vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots, the person voted for as vice-president. They shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and after annexing thereto one of the lists received from the secretary of state, they shall seal up the same, certifying thereon, that lists of the votes of this state for president and vice-president are contained therein.

Manner of voting prescribed by U. S. Constitution.—The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. (*See art. 12, § 1, U. S. Const.*)

Certificates to be made and signed.—The electors shall make and sign three certificates of all the votes given by them, each of which certificate shall contain two distinct lists, one of the votes for president, and the other of the votes for vice-president, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the state. (*U. S. Rev. Stat., 2d ed., § 138 p. 23.*)

Certificates to be sealed and indorsed.—The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such state given for president, and of all the votes given for vice-president, are contained therein. (*U. S. Rev. Stat., 2d ed., § 139, p. 23.*)

Transmission of certificates.—The electors shall dispose of the certificates thus made in the following manner:

1. They shall, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the president of the senate, at the seat of government, before the first Wednesday in January then next ensuing, one of the certificates.

2. They shall forthwith forward by the postoffice to the president of the senate, at the seat of government, one other of the certificates.

3. They shall forthwith cause the other of the certificates to be delivered to the judge of that district in which the electors shall assemble. (*See U. S. Rev. Stat. 2d ed., § 140, p. 23.*)

§ 195. Appointment of messenger.—The electors shall then, by a writing under their hands, or under the hands of a majority of them, appoint a person to take charge of the lists so sealed up, and to deliver the same to the president of the senate, at the seat of government of the United States, before the third Monday in the said month of January. In case there shall be no president of the senate at the seat of government, on the arrival of the person intrusted with the lists of the votes of the electors, then such person shall deliver the lists of votes in his custody into the office of the secretary of state of the United States.

Mileage of messenger.—Each of the persons appointed by the electors to deliver the certificates of votes to the president of the senate shall be allowed, on the delivery of the list intrusted to him, twenty-five cents for every mile of the estimated distance, by the most usual road, from the place of meeting of the electors to the seat of government of the United States. (*See § 144, N. Y. Rev. Stat. 2d ed., p. 23.*)

Forfeiture for messenger's neglect of duty.—Every person who, having been appointed messenger to deliver the certificates of the votes of the electors to the president of the senate, and having accepted such appointment, shall neglect to perform the service required from him, shall forfeit the sum of one thousand dollars. (*See § 145, N. Y. Rev. Stat. 2d ed., p. 23.*)

§ 196. Other lists to be furnished.—The electors shall also forward forthwith, by the postoffice in the city of Albany, to the president of the senate of the United States at the seat of government, and deliver forthwith to the judge of the United States

court for the northern district of the state of New York, similar lists signed, annexed, sealed up and certified in the manner aforesaid. (See notes end sec. 194.)

§ 197. **Compensation of electors.**—Every elector of the state for the election of a president and vice-president of the United States, who shall attend at any election of those officers and give his vote at the time and place appointed by law, shall be entitled to receive for his attendance at such election, the sum of fifteen dollars per day, together with ten cents per mile each way, from his place of residence, by the most usual traveled route, to the place of meeting of such electors, to be audited by the comptroller upon the certificate of the secretary of state, and paid by the treasurer.

§ 198. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

SCHEDULE OF LAWS TO BE REPEALED BY THE ELECTION LAW.

Laws of—	Chapter.	Sections.
1842.....	130.....	All.
1844.....	331.....	All.
1847.....	240.....	All.
1854.....	286.....	All.
1855.....	513.....	All.
1856.....	79.....	All.
1860.....	480.....	All.
1870.....	134.....	All.
1870.....	388.....	All.
1871.....	712.....	All.
1875.....	138.....	All.
1876.....	287.....	All.
1877.....	322.....	All.
1878.....	354.....	All.
1880.....	56.....	All.
1880.....	366.....	All.
1880.....	437.....	All.
1880.....	460.....	All.
1880.....	553.....	All.
1881.....	137.....	All.

Laws of—	Chapter.	Sections.
1881.....	163.....	All.
1882.....	154.....	All.
1882.....	366.....	All.
1882.....	410.....	1839 to 1844 inclusive, 1846, 1847 and 1848; 1850 to 1861 inclusive, 1864 to 1866 inclusive and 1868 to 1929 inclusive, and 1931.
1883.....	380.....	All.
1883.....	422.....	All.
1885.....	446.....	All.
1887.....	265.....	All.
1888.....	583.....	For sections repealed in title XX, as amended, see chapter 236, Laws 1891, in this schedule.
1889.....	I.....	All.
1890.....	117.....	All.
1890.....	169.....	All.
1890.....	262.....	All.
1890.....	321.....	All.
1890.....	355.....	All.
1891.....	7.....	All.
1891.....	236.....	Sections 3 to 25 inclusive, all after the word "board" in the last line of section 26, and sections 27 to 32 inclusive, of

ELECTORS OF PRESIDENT AND VICE-PRESIDENT. 187

of—	Chapter.	Sections.
		title XX of chapter 583, Laws of 1888, as amended by chapter 236, Laws 1891.
.....	296.....	All.
.....	336.....	All.
.....	680.....	All.
.....	233.....	All.
.....	274.....	All.
.....	370.....	All.
.....	61.....	All.
.....	275.....	All.
.....	302.....	All.
.....	348.....	2, 3, 4, 5 and 6.
.....	810.....	All.
.....	909.....	All.
.....	991.....	All.
.....	992.....	All.
.....	993.....	All.
.....	1034.....	All.

PRIMARY ELECTION LAW.

Chap. 473.

AN ACT to amend chapter one hundred and seventy-nine of the general laws of eighteen hundred and ninety-eight, entitled "An act in relation to enrollment for political parties, primary elections, conventions, and political committees," relative to the enrollment for and holding of primary elections.

Became a law May 2, 1899, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter one hundred and seventy-nine of the general laws of eighteen hundred and ninety-eight, entitled "An act in relation to enrollment for political parties, primary elections, conventions, and political committees," is hereby amended so as to read as follows:

§ 1. Short title and application of act.—The short title of this act shall be the "Primary Election Law." Except as otherwise herein provided, it shall be controlling; (1) on the methods of enrolling the voters of a party in cities and in villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants; (2) on primary elections in such cities and villages; (3) on party conventions in and for any political subdivision of the state, made up wholly or partly of delegates elected in any such city or any such village; (4) on the choice, in such cities and such villages, of the members of political committees and on the conduct of political committees, in and for any political subdivision of the state, made up wholly or partly of members from any such city or village. Provided that in case territory to which this act is not applicable shall at any time become incorporated with a city or village to which it shall then be applicable, only the provisions of subdivision one of sec-

tion three of this act shall apply to such new territory prior to first day of registration thereafter.

§ 2. **Definitions and construction of act.**—The terms used in this act shall, for the purposes of this act, have application as provided in this section, unless other meaning is clearly apparent from the language or context, or manifest intent. The term “committee” shall apply to any committee chosen in pursuance hereof, or of the rules and regulations of a party, to represent the members of the party in any political subdivision of the state. The term “general committee” shall apply to the county committees in the various counties of this state in which are located any of the cities or villages to which this act is applicable, and in the city of New York to the county committee, the city committee, if any, and such borough committees as may be established by any party. The term “convention” shall apply to any assemblage of delegates of a party, in and for any political subdivision of the state, duly convened for the purpose of nominating candidates for public office, electing delegates to other conventions, electing members of political committees, or transacting any other business relating to the affairs of a party. The term “primary election” shall apply to any election by the members of a party duly convened in any political subdivision of the state to which this act is applicable, of delegates to a convention, or of party committeemen, or of candidates for public office, or to any such election upon any question submitted to the vote of a party. The term “unit of representation” shall apply to an election district, a ward of a city, an assembly district, a congressional district, a senatorial district, or any other political subdivision of the state which, by the rules and regulations of a party, may be the unit from which members of any political convention or committee to which this act is applicable, shall be chosen. The term “custodian of primary records” shall apply to those officers or boards whose duty it is, by the provisions of the election law, to provide official ballots for general elections in the respective cities and villages to which this act is applicable. The term “party” shall apply to any political organization which, at the last preceding election of a governor, polled at least ten thousand votes for governor. No organization or association of citizens

for the election of city officers shall be deemed a political party within the meaning of this act, and membership in any such organization or association shall not prevent an elector from enrolling with, and acting as a member of a political party.

§ 3. **Enrollment.**—Subdivision 1. The custodian of primary records shall cause to be prepared on or before the fifteenth day of September in each year, original enrollment books to the number of two for each election district. Such enrollment books shall be so arranged that the names of all electors of the election district may be inscribed therein alphabetically. Except in cities containing a population of one million or over, such enrollment books shall be so arranged and printed that there shall be fourteen columns on each page; the first for the enrollment number of the electors; the second for the surnames of the electors; the third, for the Christian names of the electors; the fourth for their residence addresses; the fifth for the word "yes;" the sixth for the name of the party, if any, with which the elector shall enroll; the seventh for an entry to show a special enrollment; the eighth for the record of transfer or removal from one election district to another; the ninth for the word "voted" in case the elector votes at the first official primary election of the year; the tenth for a record as to challenges in case he is challenged thereat; the eleventh and twelfth columns for similar entries in case he votes at the second official primary election; and the thirteenth and fourteenth columns for similar entries in case there be a third official primary election or unofficial primary elections. The enrollment books prepared for election districts within a city containing a population of one million or over shall be so arranged and printed that there shall be twelve columns on each page; the first for the enrollment number of the electors; the second for the surnames of the electors; third, for the Christian names of the electors; the fourth for their residence addresses; the fifth for the word "yes;" the sixth for the name of the party, if any, with which the elector shall enroll; the seventh for the word "voted" in case the elector votes at the first official primary election of the year; the eighth for a record as to challenges in case he is challenged thereat; the ninth and tenth columns for similar entries in case he votes at the second official primary election; and the eleventh and twelfth columns for similar entries in case there be a third official primary election or unofficial primary elections. Said books shall be delivered by the custodian of primary records to the election inspectors of the respective election districts immediately before the first day of registration in each year. The custodian of primary records shall cause at least two voting booths of the same kind and description as voting booths used at general elections, to be erected in each place of registration, before the first day of registration in each year, and such booths shall be and remain in said places of registration during the registration

the four regular meetings for registration during that year; and it shall be the duty of the custodian of primary records to furnish in each voting booth so erected the same articles which are required by law to be placed therein, for a general election, which articles shall remain therein during such registration. He shall also provide in like manner one ballot box in each place of registration of sufficient capacity to hold all the enrollment blanks and envelopes which are to be furnished for such place of registration, and which shall be of the kind prescribed by law to be used at a general election. There shall also be prepared and distributed by the custodian of primary records in the manner and at public expense as provided in the election law for the furnishing of official ballots, such a number of enrollment blanks and envelopes for each election district to the primary elections of which this act is applicable, as will exceed by two hundred the total number of electors registered in such district at the last preceding general election. The enrollment blanks shall be printed on white paper, and on the face thereof shall be printed the following, or the substance thereof, the blanks to be filled in in type so far as possible:

Primary Enrollment for Year

City (or Village) of; County of

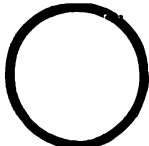
.....Assembly District (or ward);Election District.

..... Enrollment Number

"I, who have placed a mark underneath the party emblem hereunder of my choice, do solemnly declare that I have this day registered as a voter for the next ensuing election, and that I am a qualified voter of the election district in which I have so registered, and that my residence address is as stated by me at the time I so registered; that I am in general sympathy with the principles of the party which I have designated by my mark hereunder; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor, polled at least ten thousand votes for governor."

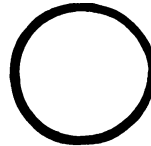
..... Party.

(Insert emblem.)



..... Party.

(Insert emblem.)



Make a cross (X) mark, with a pencil having black lead, in the circle under the emblem of the party with which you wish to enroll, for the purpose of participating in its primary elections during the next year.

The circles underneath the emblems shall be one inch in diameter, and in them nothing shall be printed. The party emblems shall be the same which were on the ballots for each party respectively at the last preceding general election, and such emblems shall be so arranged on each blank that the emblem of the majority party at the last preceding election of a governor shall be first, and the other emblems shall follow in order in accordance with the vote cast for such office at such election; over each emblem shall be printed, in type clearly legible, the name of the party represented by such emblem. The enrollment blanks shall have thereon only the emblems of those parties to which this act is applicable and shall be distributed enclosed within the enrollment envelopes having corresponding enrollment numbers. The enrollment envelopes shall be of such size as to permit enclosure therein, without folding, of the enrollment blank, and of such weight and texture of paper as to make it impossible to read or decipher the printed matter on the blank when the same is sealed on the inside thereof. Nothing shall be printed or written upon the enrollment envelopes, except the following words, or the substance thereof, blanks to be filled in in type as far as possible.

Primary Enrollment for Year.....

City (or Village) of; County of;
..... Assembly District (or Ward); Election District.

Enrollment Number

Name of Elector

(Thus amended by chap. 225, L. 1900, and chap. 111, L. 1903.)

Subdivision 2. When, in any city or village to which this act is applicable, an elector shall, at any of the four regular meetings for registration in any year, present himself to the board of election inspectors in any election district, his name and residence address shall be entered at the proper place in the two original enrollment books for that district. After he shall have been registered as a qualified elector of that election district for the next ensuing general election, the board of election inspectors, or a member thereof, shall forthwith, and before such elector leaves the place of registration, enter his registration number, beginning with number one for the first elector registered on the first day, and so on in numerical order, opposite his name, in the first column of the registration books and the enrollment books, and shall deliver to such elector the enrollment envelope and blank having

the number which shall be opposite his name on the registration books. No elector shall be given more than two sets of enrollment blanks and envelopes, or more than one set unless he shall spoil, deface, improperly mark, or otherwise destroy the first set given him. In case a second set is given him, the member of the board of election inspectors in charge of the enrollment books shall draw a line through such elector's enrollment number in the first column in said books, and of the registration books, and shall insert in such space in said columns the number which shall be upon the new set to be given him, which number shall always be the highest number of the enrollment blanks and envelopes then unused in such booth. Such elector desiring to enroll shall then enter a voting booth in said place of registration, and, after having closed the door thereof, may make a cross (X) mark with a pencil having black lead in the circle underneath the emblem of the party of his selection and thereupon enclose said enrollment blank in said envelope and seal the same, and, before leaving the place of registration, shall deliver the same to a member of the board of election inspectors who shall endorse thereon the name of such elector and thereupon return said envelope to said elector, who shall forthwith deposit the same in the ballot box in said place of registration in the presence of the inspectors of election, without in any way indicating the party with which he has or has not enrolled, and the inspectors shall thereupon enter in the enrollment books in the fifth column thereof the word "yes." If an elector declines to enroll, he may return the blank and envelope to the inspector in charge of the ballot box, and such inspector shall seal said envelope with the blank therein, endorse the name of such elector thereon and deposit the same in the ballot box; and a like entry shall be made opposite his name in the fifth column of the enrollment books. The entries in the enrollment books required by this section shall be made by a member of the board designated by the chairman. One mark crossing another mark at any angle within the circle shall be deemed a cross mark within the meaning of this act. Before any elector shall be registered in any year, the said ballot box shall be examined by the board of election inspectors and when empty shall be locked and sealed by them in such a manner that should it be opened such seal would be broken; and the same shall remain so locked and sealed until the same shall be opened by the custodian of primary records after the next ensuing general election as hereinafter provided.

Said ballot boxes shall be in the charge and keeping of the custodian of primary records at all times except during the hours of registration as prescribed by law. At the close of the last meeting for registration in each year the board of election inspectors shall severally subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books. Such declarations shall be to the effect that the persons shown by such enrollment books are the only persons who registered as electors in that district on any of said days of registration. Immediately upon the close of each day of registration, and before leaving the meeting place, the board of election inspectors shall publicly inclose the said enrollment books, together with all records pertaining thereto, in a sealed envelope, upon which shall be written or printed in distinct characters the number of the election district. Such envelope shall remain in the custody of the chairman of the board until the meeting on the next day of registration, when it shall be publicly opened. The envelope sealed at the close of the last day of registration shall, within twenty-four hours thereafter, be delivered to the custodian of primary records. Such envelope shall remain sealed until the next Tuesday following the next ensuing day of general election. No member of the board of election inspectors shall make, or allow to be made, a copy of, or a transcript or statement from, the enrollment books. No person shall, on any of such days of registration or in the interval between any such day and the next ensuing day of general election, reveal or disclose the names or number of the enrolled electors, or make, publish or circulate a list of such names, or of any thereof, or do or permit any act by which the name of any elector who may or may not have enrolled, or the number of electors enrolled or not enrolled, shall be disclosed. (*Thus amended by chap. 225, L. 1900.*)

Subdivision 3. It shall be the duty of the board of primary inspectors, or one of them, after the final meeting for registration in each year, and at the same time he delivers the registration books, to deliver the enrollment box to the custodian of primary records. All enrollment envelopes contained therein shall remain in such box, and the said box shall not be opened

or any of the envelopes be opened or removed therefrom until the Tuesday following the next succeeding day of general election. Such box shall then be opened by the custodian of primary records, and the envelopes contained therein shall be removed therefrom and opened by said custodian, and the name of the party designated by each elector under such declaration shall be by said custodian entered against the name of such elector in the sixth column of said enrollment books for the election district in which such elector resides. Such enrollment shall be completed before the fifteenth day of December in each year. If cross marks are found in more than one of the circles, or if no cross marks are found in any of the circles on any enrollment blank, the elector who used the enrollment blank thus deficient shall not be deemed to be enrolled, and words indicating the reason why such enrollment is not transcribed shall be entered in said sixth column of the enrollment books against the name of such elector. When all of the enrollments shall be transcribed from the blanks to the enrollment books, the custodian of primary records shall subscribe and verify duplicate declarations, one of which shall be printed in or attached to each of the original enrollment books, which declaration shall be to the effect that he has correctly and properly transcribed the enrollment indicated on the blank of each elector to the enrollment books, as herein provided.

Subdivision 4. At any time during the months of May and June, and in any year when a president of the United States is to be elected in the month of February also, any elector who was registered as a voter at one of said four meetings for registration in the preceding year but who did not then enroll with any party, may, except in cities containing a population of one million or over, become specially enrolled in and have his name added to the original enrollment books of, any party in the election district in which he then resided and still resides, in the manner following: He shall make, and acknowledge before an inspector of election in the election district in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed, with the custodian of primary records a statement embodying a declaration in the following form: "I, (naming the elector) do solemnly

declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district (or ward) in the city (or village) of (naming it); that at one of the last four preceding days of registration I registered as a voter in the said election district, but did not enroll, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor." Upon the filing of such statement, the custodian of primary records shall enroll such elector in the original enrollment books for the proper election district and shall record, in the proper columns thereof, the name and residence address of such elector, the election district in which he is registered as a voter, the name of the party designated in such statement, the number opposite his name on the registration book, the fact that the elector is specially enrolled, and the date of such special enrollment. If subsequent to any general election and prior to the first day of July next ensuing, territory to which this act is not applicable shall have become incorporated with a city or village to which it shall then be applicable, any elector residing in such annexed territory may become enrolled in and have his name added to the original enrollment books of any party for the election district in which he resides, at the time and in the manner provided in this subdivision. The enrollment of any such elector, so made, heretofore, is hereby legalized, ratified and confirmed in all respects as if made in pursuance of the provisions hereof. Nothing in this subdivision contained, giving the right to specially enroll as a member of a party, shall apply to cities containing a population of one million or over, and in such cities no elector shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration, as provided in subdivision two of this section of this act. (*Thus amended by chap. 204, L. 1900, and chap. 111, L. 1903.*)

Subdivision 5. Except in cities containing a population of one million or over, an elector who shall have become of age after the last preceding general election may at any time other than during the thirty days next preceding an official primary day, become specially enrolled in, and have his name added to the original enrollment books of any party in the election district in which he resides, in the manner following: He shall make, and acknowledge before an inspector of elections in the election dis-

trict in which he resides, or any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and file or cause to be filed with the custodian of primary records a statement embodying the declaration contained in subdivision four of this section, except that instead of the words indicating that the elector was registered at one of the last four preceding days of registration but did not enroll, words indicating that he has become of age since the last preceding general election shall be used. Upon the filing of such statement, the custodian of primary records shall enroll such elector in the original enrollment books for the proper election district, and shall record in the proper columns thereof, the name and residence address of such elector, the fact that he has become specially enrolled, the date of such special enrollment, and the fact that he has become of age since the last preceding general election. Nothing in this subdivision contained giving to electors who shall have become of age after the last preceding general election the right to specially enroll, shall apply to cities containing a population of one million or over, and in such cities no elector shall be permitted to enroll as a member of a party except at one of the four regular meetings for registration as provided in subdivision two of this section of this act. (*Thus amended by chap. 111, L. 1903.*)

Subdivision 6. If, after being enrolled as a member of a party in one election district, either by original enrollment or by transfer, an elector shall move into another election district in the same city or village, he may, except in cities containing a population of one million or over, at any time between the first day of February of any year and the thirtieth day before the annual primary day, except during the thirty days before the official primary day in March, as herein provided, become enrolled therein as a member of the same party by making, acknowledging, and filing, or causing to be filed, with the custodian of primary records, a statement specifying the name of the party with which, and the election district in which, he is enrolled, and the election district into which he has moved, and stating that he resides in the last mentioned election district, and desires to be enrolled therein as a member of such party. Upon the filing of such statement the custodian of primary records shall enroll the name of such elector in the original enrollment books for the proper election district, specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name in the original enrollment books of the election district from which he has removed, showing the election district to which his name is transferred. Nothing in this subdivision contained giving the right of transfer as herein stated, shall apply to cities containing a population of one million or over, and in such cities no elector shall be permitted to take part in any primary election of any

party other than the party with which and in the election district in which he enrolled at one of the four regular meetings for registration, as provided in subdivision two of this section of this act. (*Thus amended by chap. 111, L. 1903.*)

Subdivision 7. The custodian of primary records shall annually provide a duplicate set of enrollment books for each party to which this act shall then be applicable, and shall, in the month of December of each year, deliver one set of such books to the chairman of the proper general committee of each such party. Such duplicate books shall conform in all respects to the form of the original enrollment books, and all entries in such original enrollment books, (completed to December fifteenth, when such books are prepared for election districts outside of a city containing a population of one million or over) shall be transferred thereto. The custodian of primary records shall, whenever requested so to do by the chairman of the proper general committee of any party to which this act is applicable and upon the delivery to him of that party's duplicate enrollment book for any election district, of a city or village other than a city containing a population of one million or over, make such additions thereto and changes therein as may be necessary to cause the same to conform to the original enrollment books of that election district, completed to the fifteenth day of the month during which such request is made, and shall, as promptly as possible, return the same to such chairman or his duly authorized representative, accompanied by a certificate that each such duplicate book is a correct copy of the original, as of such date. The custodian of primary records within a city containing a population of one million or over, shall certify to such chairman that each such duplicate book is a correct copy of the original enrollment book made during the four days of registration of electors for the preceding general election. At all unofficial primary elections of a party, the certified duplicate enrollment books (completed, in the case of election districts outside of a city containing a population of one million or over, to the first day of the month preceding the month in which the primary election is held) shall be used, and no elector shall be allowed to take part in such primary election as a resident of an election district, unless his name is upon the duplicate enrollment book for that district, showing that he is enrolled with the party in whose primary election he seeks to participate. (*Thus amended by chap. 111, L. 1903.*)

Subdivision 8. The original enrollment books shall be used at all official primary elections, and shall be delivered by the custodian of primary records to the proper boards of election inspectors immediately before the opening of the polls on each official primary day, and shall be returned to such custodian forthwith, after the completion of the canvass of the votes. Such

enrollment books shall go into effect on the first day of January following the days of registration on which they are begun, and shall, with any additions or changes made as herein provided, remain in force until the first day of the following January, when they shall be superseded by the new enrollment books, as herein provided.

Subdivision 9. Except as otherwise expressly provided in this act, only electors enrolled as herein provided shall be entitled to participate in the primary elections of their respective parties. No elector who has registered as a voter in the preceding year shall be allowed to enroll in any election district other than that in which he was so registered as a voter, unless the custodian of primary records shall find that he was so registered in such other election district. No elector shall take part in any primary election of any party other than the party with which he shall at the time be enrolled. In case, in the interval between the days of registration and an official primary day in the succeeding year, a new election district shall be created, or the boundaries of an election district, or the number of any ward, or assembly district, shall be changed, the custodian of primary records, shall, at least thirty days prior to such official primary day, prepare two new enrollment books for such district, or properly renumber the enrollment books for such ward, or assembly district, which enrollment books shall be in the same form and exhibit the same facts as the enrollment books then in force in the territory comprised within such new or changed district, or renumbered ward or assembly district, but shall contain only the names of all the voters, who as shown by the enrollment books then in force in such territory are the enrolled voters of the respective political parties resident within such new or changed election district, or renumbered ward or assembly district. And, in that event, such new enrollment books shall supersede the enrollment books then in force in such territory, and the custodian of primary records shall be charged with the same duties concerning the same and any duplicate sets thereof or transcripts therefrom as are herein provided with respect to the enrollment books begun on the days of registration. The enrollment books herein provided for and any declarations filed on enrollment shall be public records, and shall be open to inspection and copying at any time by any person, except for the period during which they are required to remain sealed as herein provided. It shall be the duty of the custodian of primary records to certify to the correctness of any transcript of such enrollment books, or of any part thereof, on the payment of one cent for every twenty names contained in the transcript; wherever the custodian of primary records is a salaried officer, the fees received by him for certifying such transcripts

shall be paid into the public treasury. Such a certified transcript, containing the name and showing the enrollment of any elector, shall be sufficient evidence of such enrollment. The custodian of primary records shall give to any elector enrolled or transferred, as in this section provided, a certificate of enrollment or of transfer, which shall specify the name of the party with which he is enrolled, the date of enrollment or transfer, and the election district in which such elector is enrolled. The acknowledgments required to be made by this section may be made before an inspector of election of the district in which the elector making it resides, or before any officer authorized by law to take the acknowledgment of deeds in this state. No elector who has once enrolled in a political party shall be permitted to enroll in another political party before the first of the next four days of registration. Only electors at the time residing in the election district and who registered as electors in the same city or village in the last preceding year, or who shall have become of age after the last preceding general election, and whose names are not already on the rolls of any party, shall be entitled to specially enroll. The declarations and enrollment blanks filed by electors at the time of registration or in the special enrollment shall be public records and shall be kept on file until one year thereafter. No person shall be required to enroll, nor shall his failure to do so affect his right to register for the purpose of voting at any election.

Subdivision 10. In a city containing a population of one million or over, the public officer or board at the time charged with the duty of publishing the registration lists of electors in such city shall, between the fifteenth day of December and the first day of January, cause to be published in like manner and at public expense a transcript of the enrollment books of each election district in such city, omitting all entries except the names, the residence addresses, and the party, if any, recorded opposite the respective names. The custodian of primary records shall provide such transcript for publication. (*Thus amended by chap. 111, L. 1903.*)

§ 4. **Primary elections.**—Subdivision 1. In a year when a president and vice-president of the United States are to be elected, the tenth Tuesday before the day of general election, and in other years the seventh Tuesday before the day of general election, shall be known as the annual primary day, and in all cities and villages to which this act is applicable each party shall on such day hold primary elections for the following purposes:

First. The election of delegates to all political conventions except conventions made up of delegates who by the rules and regulations of the party are chosen by other conventions and not

at primary elections, and conventions called to meet prior to such primary day for the purpose of nominating candidates to be voted for at special elections.

Second. For the nomination of all candidates for public offices to be voted for at the ensuing election who by rule adopted by a party pursuant to section twelve of this act, are to be nominated at a primary election and not at a convention; and for the election of committeemen whose duty it shall be to fill vacancies in such nominations in the cases prescribed by section sixty-six of the election law, and in the manner therein provided so far as the same is applicable thereto. (*Thus amended by chap. 167, L. 1901.*)

Third. For the election of all committeemen who are to be chosen at a primary election and not at a convention.

Fourth. For the election of alternates to delegates, in case the rules and regulations of a party shall so provide.

Provided, however, that in any county having within its limits a city of the first class, there shall be in each even numbered year and in each odd numbered year in which officers of the state, other than members of the legislature are to be elected, two annual primary days, the first on the seventh Tuesday before such day of general election except as above provided for a presidential year and the second on the fifth Tuesday before such day of general election. On the first of such days shall be held the primary elections for the purpose of electing delegates to such conventions as are made up of delegates representing more than one county or of electing delegates to conventions to choose delegates to conventions which are made up of delegates representing more than one county; and on the second of such days shall be held the primary elections for the election of other delegates, the nomination of candidates and the election of committeemen, as provided in this subdivision one of section four of this act. Nothing herein contained shall be construed as compelling the holding of primary elections in such a county on the first of such days in odd numbered years in case no delegates are to be voted for thereat, but in that event there shall be in such a year in such a county but one annual primary day, and it shall be on the fifth Tuesday before such general election. The primary elections held on each primary day shall be official primary elections, and except as in this provision provided, such elections, and all inspectors thereof and public officers and boards, shall be subject to all the provisions and charged with all of the duties prescribed by this act for the conduct of the official primary elections on the annual primary day.

Subdivision 2. In each year when a president and vice-president of the United States are to be elected there shall be a primary election for the choice of delegates to state conventions and congressional district conventions, or of delegates to conventions by which delegates to state conventions or congressional district conventions are to be chosen, as the rules and regulations of a party may prescribe, on an additional official primary day which shall be the last Tuesday of March. The primary elections on that day shall be subject to all the provisions of this act for the conduct of primary elections on the annual primary day as prescribed in this section. The expense of official primary elections, including the expense of preparing and copying new enrollment books and the compensation herein provided to be paid to primary election inspectors, shall be paid by the same officers or boards of the city in which said primary is held, and in the same manner, as the expenses of general elections. Delegates to conventions to nominate candidates for member of congress or to conventions to elect delegates to conventions to nominate such candidates shall be elected on the annual primary day. (*Thus amended by chap. 360, L. 1901.*)

Subdivision 3. The custodian of primary records shall, thirty days before each official primary day, divide every ward or assembly district in a city and every village to which this act is applicable, into primary districts, each of which shall consist of two contiguous election districts, except that in case there is an odd number of election districts in such ward, assembly district, or village, the highest numbered election district shall be a primary district by itself. There shall be two polling places in each of such primary districts which shall be designated and provided at public expense by the officers or boards whose duty it is to provide polling places for days of general election, and which shall be, so far as they are available, the same places which were used for the last preceding general election. The custodian of primary records shall assign one of the polling places in each primary district to the party which, at the last election of a governor, cast the highest number of votes for governor, and at the other polling place in such primary district there shall be held the primary elections of all other parties.

Subdivision 4. At least twenty days before each official primary day the chairman of the general committee of each party subject to the provisions of this act, shall certify and deliver to the custodian of primary records a statement of the conventions, committees and offices for which delegates, members or candidates, as the case may be, are to be elected thereat, and the number of delegates to conventions, and members of committees, to be elected in each unit of representation. The custodian of primary records shall prepare a notice of each official primary election provided for by this act, and shall publish such notice, not more than ten days and not less than five days prior to such primary election, in at least one newspaper having a general circulation in the city or village, of the political faith of each of the two parties which, at the last preceding election of a governor, cast the highest and next highest number of votes for governor. Such notice shall specify the day of such primary election, the hours during which it will be held, the location of each polling place, the election districts whose electors may vote at each such polling place, the name of the party or parties whose primary elections will be held thereat, and the conventions, committees and offices for which delegates, members or candidates, as the case may be, will be voted for thereat. All official primary elections held in pursuance of this act shall be open from two o'clock in the afternoon to nine o'clock in the evening. All other primary elections, if any, shall be open for not less than four hours, commencing not earlier than three o'clock in the afternoon and ending not later than ten o'clock in the evening.

Subdivision 5. Notice of all unofficial primary elections shall be given in the same manner as in the case of official primary elections, except that such notice shall be given by the proper party officers and shall not be at public expense. Unofficial primary elections shall be held in such places within the unit of representation for which the primary election is held, as shall be designated by the proper political committee, but there shall be at least one polling place within and for each assembly district, ward or village. No primary election shall be held in a saloon or drinking place, or in a room which is more than one flight of stairs from the street or not readily accessible from the street.

The chairman and secretary of the political committee calling an unofficial primary election, or under whose direction such primary election is held, shall post and keep posted during the election, at or near the entrance to the room where the primary election is held, so that the same is clearly visible from the street, a conspicuous notice calling attention to the place at which the primary election is being held. Unofficial primary elections shall be held at the expense of the party holding them, and, except as herein otherwise provided, shall be subject to the rules and regulations of such party.

§ 5. Primary election officers.—Subdivision 1. There shall be for each primary district two boards of primary election inspectors, one of which shall consist of the election inspectors for the election district or districts comprised within such primary district who shall, at the time, represent the party which, at the last preceding general election of a governor, have cast the largest number of votes for governor, and the other of which shall consist of the election inspectors who shall represent the party which, at such election, cast the second largest number of votes for governor, except that in a primary district co-terminous with an election district each board shall have, as an additional member thereof, the poll clerk who shall represent the same party as the two inspectors of election. The first mentioned of said boards shall conduct the primary elections of the party represented by its members, and the second mentioned of said boards shall conduct the primary elections of all other parties at the time entitled to hold official primary elections.

Subdivision 2. The election officers who are required by section twelve of the election law to be appointed on or before the first day of October in each year, shall, in all cities and villages to which this act is applicable, be appointed, and take office, at least thirty days before the first day of October. The oath which each election officer is required to take by the provisions of section twelve of the election law, shall include his duties as a primary election officer, and all duties prescribed by this act. Removals from, and vacancies in, a board of primary election inspectors on an official primary or enrollment day shall be made and filled in the same manner as on a day of registration. Before entering

upon their duties, the inspectors of each primary district shall meet and appoint one of their number chairman, or, if a majority shall not agree upon such appointment, they shall draw lots for that position. The primary election inspectors serving on the official primary days, shall each be paid the sum of five dollars for each day of such service. Before entering on his duties, each primary inspector shall make and subscribe an oath to faithfully perform his duties as such, which oath shall form a part of the return to the custodian of primary records.

§ 6. **Ballots, booths, supplies, et cetera.**—The custodian of primary records shall, not later than twenty days prior to the holding of any official primary election provided for in this act, prescribe the size, color, weight and texture of the paper to be used for the ballots at such primary election and prepare samples thereof. The colors of the ballots shall be such that those of each party shall be easily distinguishable from those of all the other parties and shall be such that the printing thereon shall be easily legible. The paper shall be of such weight and texture as to make it impossible to read or decipher the printed matter on the inside of the ballot when it shall be folded. Each ballot shall have printed or written upon its face the party name, the assembly district or ward number if any, the election district number when the election district is a unit of representation, the names of the positions to be filled and the names of the persons voted for to fill such positions. The size of the ballot shall be large enough for the printing thereon of a complete set of names for all the positions to be filled at such primary election. All printing thereon shall be in black ink. Such sample ballots shall have the words "sample ballot of the (specifying it) party" printed thereon, and shall be exhibited for inspection during the hours within which the office of such custodian is open for business, and it shall be the duty of such custodian to furnish to each member of the board of primary election inspectors and to any elector applying for the same, a sample of the ballot for each party. The custodian shall also furnish to party committees or to electors, applying therefor, at cost, the paper so designated to be used for ballots. Ballots to be voted on either of the two official primary days may be provided by

any person. Ballots not conforming to the provisions of this section shall not be counted at any official primary election. The polling places, voting booths, guard-rails, distance markers, ballot-boxes, sample ballots and other supplies required for official primary elections shall be provided and paid for by the same officers, and in the same manner, as in the case of general elections, pursuant to sections ten and eighteen of the election law. At all official primary elections a separate box with the name and emblem of the party and with the number of the election district clearly and conspicuously written or printed thereon, shall be provided at each polling place for each party participating in a primary election at such polling place and for each election district the voters of which vote at such polling place; and there shall also be a large box for the reception of the unvoted ballots. There shall be affixed to the outside of the polling place, and in at least two places on the inside thereof, and in a conspicuous manner, placards, printed with large sized and bold-faced type, which shall specify the name of the party or parties whose primary election is being held in such polling place. It shall be the duty of all primary inspectors to receive, preserve, and have at their respective polling places for delivery to electors on any official primary day, all unvoted ballots which may be delivered to them, or any of them, by any qualified elector at any time before the closing of the polls on any such primary day.

§ 7. Voting at official primary elections.—Subdivision 1. When, at any official primary election, an elector shall present himself to the board of primary inspectors, and declare his desire to vote, he shall announce his name, residence and party, and if he shall be found to be duly enrolled as a member of such party in that primary district, the board of primary inspectors, or a member thereof, shall deliver to him unfolded one of each of the ballots of his party intended for the electors of the election district in which he resides, which are in the polling place. Thereupon, and before voting, the elector shall retire into one of the booths of the polling place. Immediately upon leaving such booth he shall be permitted to vote by delivering to one of the inspectors any

ballot which conforms, in external appearance, to the provisions of this act, folded in such a way that none of the printed or written matter on the inside thereof shall be visible. The inspector to whom such ballot is so delivered shall, at once and in the presence of the elector, deposit it in the proper ballot-box. When an elector shall have offered his ballot, and it shall be in the ballot-box, he shall deliver all of the unvoted ballots which were delivered to him, each of them so folded as to conceal the inside thereof, to such inspector, and such officer shall, forthwith and without opening the same or revealing the contents thereof, deposit such ballots in the box for unvoted ballots. Such unvoted ballots shall, on completion of the canvass, be removed from such box, and without being examined be destroyed. No person shall cast more than one ballot. No ballot which shall have any printing, writing or mark on the outside thereof, shall be received. No ballot shall be in any way marked for identification. At all primary elections, all ballot-boxes to be used thereat shall be opened and examined by the board of primary inspectors in the presence of the watchers, if any, before any ballots are received; and when empty shall be closed and sealed, and not be opened again until the close of the polls at such primary election. The procedure shall, as far as possible, except as changed by the provisions of this act, be the same as that provided for the reception and deposit of ballots on the day of general election. When the elector shall have cast his ballot, that fact shall be recorded by the board of primary inspectors by the entry of the word "voted," opposite his name in the proper column of the original enrollment books provided therefor.

Subdivision 2. The right of an enrolled elector to participate in any official primary election shall be subject to challenge at any time before his ballot is deposited in the ballot-box. When any enrolled elector shall be challenged, the chairman, or one of the members, of said board, shall forthwith put to him an oath or affirmation to answer truly such questions as shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and shall answer in the affirmative each of the following questions:

Are you (using the name which he has given as his name)?

Do you reside, and have you, for thirty days last past, resided at (giving the address which he has given as his residence)?

Subdivision 3. From the time of the opening of the polls, until the result of the canvass of the votes cast thereat shall have been announced, and the official statements of such canvass shall have been signed, the ballot-boxes and all voted ballots shall be kept within the guard-rail. No person shall be admitted within the guard-rail during such period, except primary election inspectors, duly authorized watchers, persons admitted by the inspectors to preserve order or enforce the law, and persons duly admitted for the purpose of voting; provided, however, that any candidate voted for may be present at the canvass of the votes.

Subdivision 4. Watchers, not exceeding one for each election district, may be appointed by any political committee, and by any two or more of the persons whose names are upon any ticket to be voted for at such primary election. Such watchers may be present at such polling place and within the guard-rail from at least fifteen minutes before the examination of any ballot-box at the opening of the polls of such primary election until after the announcement of the result of the canvass of the votes cast thereat and the signing of the statements thereof by the inspectors. A reasonable number of challengers, at least one person for any three or more persons of each party holding its primary election at that polling place, whose names are upon any ticket to be voted for at such primary election, shall be permitted to remain just outside the guard-rail of each such polling place, and where they can plainly see what is done within such rail outside the voting booths, from the opening to the close of the polls thereat. No person shall, while the polls are open, at any polling place do any electioneering within such polling place, or within one hundred feet therefrom, in any public street or in any building or room, or in a public manner, and no political banner, poster or placard shall be allowed in or upon such polling place on any primary day.

§ 8. **Canvass of votes.**—Subdivision 1. As soon as the polls at any official primary election shall close, the board of primary inspectors shall forthwith publicly canvass and ascertain the result thereof, and they shall not adjourn or postpone the canvass until it shall be fully completed. All questions touching the validity of ballots or their conformity with the provisions of this act shall be determined by a majority vote of the board of primary inspectors. The room in which such canvass is made shall be clearly lighted, and such canvass shall be made in plain view of the public. It shall not be lawful for any person or persons during the canvass, to close, or cause to be closed, the main entrance to the room in which such canvass is conducted, in such manner as to prevent ingress or egress thereby. The board of primary inspectors shall proceed to canvass the vote by counting the ballots found in the ballot boxes without unfolding them, except so far as to ascertain that each ballot is single, and by comparing the ballots found in each box with the number shown by the enrollment books to have been deposited therein. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein such ballots shall be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors designated by the board shall, without seeing the same and with his back to the box, publicly draw out as many ballots as shall be equal to such excess, and, without unfolding them, forthwith destroy them. If two or more ballots shall be found in the ballot-box so folded together as to present the appearance of a single ballot, they shall be destroyed if the whole number of ballots in such ballot-box exceeds the whole number of ballots shown by the enrollment books to have been deposited therein, and not otherwise. If there lawfully be more than one ballot-box for the reception of ballots voted for at any one polling place, no ballot found in the wrong ballot-box shall be rejected, but shall be counted in the same manner as if found in the proper box, if such ballot shall not, together with the ballots found in the proper ballot-box, make a total of more ballots than are shown by the enrollment books to have been deposited in the proper box. The chairman only of the board of primary inspectors shall unfold the

ballots taken from the ballot-box. When a ballot is not void, and a primary election inspector or a duly authorized watcher shall, during the canvass of the vote, declare his belief that any particular ballot has been written upon or marked in any way for the purpose of identification, the inspectors shall write on the back of such ballot "Objected to because marked for identification," and shall specify over their signatures upon the back thereof the mark or markings upon such ballot to which objection is made. The votes upon each such ballot shall be counted by them as if not so objected to. If any ballots shall be rejected as void, the reason for such rejection shall be written on the back thereof by the chairman of the inspectors, or by an inspector designated by him. All ballots rejected as void, and all ballots protested as marked for identification, shall be enclosed in a separate sealed package, which shall be endorsed on the outside thereof with the names of the inspectors, the designation of the election district, and the number and kind of ballots contained therein. Such package shall be filed by the chairman of the board of inspectors with the original statement of the canvass. A statement of the number of ballots protested as marked for identification, and of the number thereof rejected as void, shall be included in each of the statements of the result of the canvass. If requested by any watcher, the inspector shall, during the canvass, exhibit any and all ballots cast at such primary election to such watcher, fully opened and in such condition that he may fully and carefully read and examine the same, but such inspector shall not allow any such ballot to be taken from his hand.

Subdivision 2. Immediately upon the completion of such canvass, the board of primary inspectors in each primary district shall make public oral proclamation of the result thereof, and shall make a written statement of such result for each election district in such primary district, and also a duplicate thereof, which shall be known as the duplicate statement. Immediately after the completion of such statements, such board shall file the original thereof with the custodian of primary records, and shall file the duplicate statement with the clerk of the city or village. In any county which contains a city or village to which this act is applicable and has territory greater than such city or village, the

officers presiding at primary elections held in the political divisions of such county outside of such city or village shall file with the custodian of primary records immediately after the holding of every such primary election a sworn statement of the delegates and members of general committees elected thereat.

Subdivision 3. At all reasonable times any watcher shall have reasonable opportunity to make a transcript of such statement, or any portion thereof, and any candidate shall be entitled to receive, upon demand, a written statement showing the result of the primary election so far as he is concerned. In the case of a primary election at which persons are elected to any convention or committee from election districts as the unit of representation, the board of primary inspectors shall, promptly after canvassing the vote, deliver to each of the persons who receive the largest number of votes as delegates to, or as members of, such convention or committee, or to the respective persons authorized in writing by them to receive the same, a certificate stating the total number of votes cast for the respective candidates and the number thereof received by such persons respectively. Such certificate shall be the evidence of the election of such persons, and shall entitle them and each of them to be placed upon the roll of, and be admitted to, such convention or committee. After the close of the canvass of the votes at primary elections, the ballots cast thereat, except those rejected as void or protested as marked for identification, shall be replaced in the ballot-boxes from which they were respectively taken, and such ballot-boxes shall then be securely locked and sealed, and shall be returned to the officer from whom they were received, who shall safely keep the same; subject, however, to be produced upon the order of any court of record or judge thereof, for not less than thirty days after such primary election, and until all suits or proceedings before any court or judge touching the same shall have been finally determined, when the ballots shall be removed and, without examination, destroyed.

Subdivision 4. The custodian of primary records shall forthwith proceed to canvass the statements so filed (except so far as they relate to the election of delegates to conventions or members of committees from election districts as the unit of repre-

sentation), and shall complete such canvass within seventy-two hours from midnight of the day on which the primary election was held. Such custodian shall thereupon prepare certified statements of the result of the primary elections of each party participating therein and shall make up the rolls of the conventions for which delegates were elected at such primary elections, so far as such conventions are to be made up of such delegates, and add thereto the names of any delegates entitled to act in such conventions from any of the political divisions of such county not included within any city or village to which this act is applicable, as contained in the statements filed with him pursuant to subdivision two of section eight of this act, and shall promptly mail, and, if requested, deliver one copy thereof to the respective secretaries of the proper political committees of the several parties participating in such primary election. It shall be the duty of the custodian of primary records to prepare a certified transcript of such statements, or any portion thereof, and deliver the same to any individual or political committee upon demand on payment of five cents for every one hundred words so certified. Wherever the custodian of primary records is a salaried officer, the fees received by him for making such certified transcripts, shall be paid into the public treasury. The secretary of any political committee shall be entitled to receive, upon demand, a certificate of the result of any such election in any unit of representation comprised within the territory within which such committee represents a party. Such custodian shall also promptly deliver upon demand to any person, who, by the statements so filed and canvassed, is shown to have been elected as delegate to a convention or a member of a committee, or to have been nominated as a candidate for public office, a certificate of such election or nomination, as the case may be. Such certificate, or a duplicate thereof, shall be sufficient to entitle the person named therein to be admitted to the convention or committee to which he shall have been elected, and upon filing such certificate in the proper office and at the proper time prior to election day, a person nominated for public office at such primary election shall be entitled to have his name printed upon the official ballot of his party, as if he had been nominated in the

manner provided in section fifty-six of the election law. Nothing herein contained shall be construed as preventing the holding of a convention prior to the receipt by the secretary of the proper political committee of the certificate provided for in this section, provided the roll of such convention shall be made up of those delegates who shall have been duly elected as shown by the original statements of the boards of primary inspectors in the various election districts, and in the statements filed pursuant to subdivision two of section eight hereof.

Duty of custodian is ministerial. The duty imposed upon the custodian of primary records by subdivision 4 of this section to deliver the certificate of nomination to the person who, by the statement filed and canvassed, is shown to have been nominated, is ministerial and not judicial, and he has no power to receive or act upon affidavits tending to explain, vary or contradict such statement and he cannot therefore determine that certain votes cast for a candidate having a similar name as one of the other candidates were intended for such other candidate. (*People ex rel. Callahan v. Hunt*, 75 App. Div. 33; 77 N. Y. Supp. 973.)

§ 9. Subdivision 1. Committees, and rules and regulations of parties.—Subdivision one. Each party shall have a general committee for each county, except that in the city of New York there may be, in lieu of, or in addition to, a general committee for each county wholly therein, a general city committee or general borough committees, or both, as the rules and regulations of the party may prescribe, and except that in each city other than said city of New York, and cities of the first class, if it be desired by a majority of the members of such general committees elected from the wards of such city, there shall be for such city a city committee to consist of such members so elected from such wards, who shall have power to perfect their own organization under such rules and regulations as they may prescribe for the conduct of the affairs of such party affecting such city and the wards thereof. Any party may also have committees in and for such other political subdivisions as its rules and regulations may prescribe. All members of general committees, and assembly district and ward committees, chosen in or from cities of the first class except as otherwise herein provided, shall be elected at the primary elections, on the annual primary day of each year. In the other cities and villages to which this act is applicable, except as otherwise provided in this act, there shall be elected at the primary elections on such day either the members of all general committees elected from such cities or villages, or the members from such cities or villages of the conventions or committees by which members of the general committees are to be appointed, and in such cities and villages the rules of the party may determine whether members of general committees shall be elected at primary elections or by conventions or committees the members of which shall be elected on the annual primary day as above provided, or by conventions or committees which shall have been

chosen by delegates who shall have been elected on the annual primary day as above provided. The times when committees elected at primary elections shall take office shall be determined by the rules and regulations of the respective parties, except that such time shall not be later than the first day of January succeeding their election. On the day fixed by the rules and regulations, constitutions or by-laws of the party, the members of each general county committee or city committee shall meet and organize. They may proceed to make and adopt rules and regulations, but unless so adopted, the rules or regulations adopted by the last preceding county or city committee of said party in said county or city shall remain in full force and effect until repealed or amended in accordance with the provisions of this act. Members of committees shall be apportioned among the various units of representation entitled to representation therein according to the rules hereinafter prescribed for the apportionment of delegates to conventions. Members of committees in villages shall be apportioned and shall hold office as shall be provided in the rules and regulations of parties. Each county or city committee and the officers thereof shall have all the power and authority and shall perform all the duties, in respect to the nominations of officers to serve at general elections, conferred upon the general committee, the county committee, the city committee, the executive committee, or the officers thereof, given to any party in such city or county by section twelve of the election law. (*Thus amended by chap. 167, L. 1901, and chap. 595, L. 1903.*)

Removal of member of general committee. The members of a general committee of a political party cannot remove one of their members who has been duly elected as provided in the primary elections law, and a member whose removal has been attempted may be restored by mandamus. (*People ex rel. Coffey v. Democratic General Committee of Kings*, 166 N. Y. 335, rev'g 52 App. Div. 170.)

Power to select election officers lies in general committee of party, and court will not interfere. (*Matter of Sheehan v. McMahon*, 44 App. Div. 63.)

City committee of democratic party in Albany may fill every office in the committee not held and controlled by the rules of the general committee of the county. (*Wallace v. McCabe*, 32 Misc. 336.)

Filling vacancies. A general county committee may adopt a rule providing that a vacancy in that body, created by a resignation of one of its members, shall be filled for the remainder of the unexpired term by majority vote of the sitting delegates from the assembly district in which delegation such vacancy occurred. (*People v. Republican General Committee*, 63 App. Div. 438.)

Effect of amendment of 1901 is to permit a city committee, organized by the members of the general committee of a county, elected from several wards of the city, to fix the basis of representation of the several wards of the city in the city convention, different from that authorized the county committee. (*Matter of Wallace*, 36 Misc. 1; 72 N. Y. Supp. 445.)

Subdivision 2. The rules and regulations of parties, and of their conventions and committees thereof, shall not be contrary to, <

inconsistent with, the provisions of this act, or of any other law, and shall not be amended except upon reasonable notice. Every political committee shall, within three days after its organization, file with the proper custodian of primary records a certificate specifying the names and addresses of its chairman and secretary, and shall within the same period of time after its adoption file with said custodian a transcript of every rule and regulation of said party in said county and of every amendment thereof duly certified in like manner. The rules and regulations of a party may prescribe the amount of annual dues to be paid by each member of such committee to such committee, for the purpose of defraying the expenses thereof, and may contain a provision precluding any member who may fail to comply therewith, from participating in the meetings of such committee.

Rules of general committee, how amended. Rules adopted under this section cannot be amended except upon reasonable notice. Where the existing rules of the general committee provide that the executive committee shall consist of one member from each assembly district, the general committee cannot decide the right of an assembly district to such membership, by having the right of the delegates of that district to membership in the general committee contested, and then passing, without previous notice, a resolution that one person from each uncontested assembly district shall constitute the executive committee. (*People ex rel. Garvey v. Democratic General Committee*, 39 Misc. 724.)

§ 10. **Conventions.**—The delegates to every party convention in and for any political subdivision, chosen in any city or village to which this act is applicable, shall be apportioned among the units of representation in such city or village as nearly as possible upon the basis of the number of votes cast therein for the party candidate for governor at the last preceding general election, except that in any county which is not wholly included within the boundaries of a city of the first class, the general committee of the party may, by its rules and regulations, continue any existing system of representation in conventions. The general committee of any party may also by its rules and regulations apportion the voting power of the delegates to a convention in accordance with such vote for governor. If the boundaries of any political subdivisions serving as units of representation shall have been changed since the last preceding general election at which a governor was elected, the party vote for governor at such election within the limits of such newly constituted units of representation shall be estimated as closely as possible and the apportionment of delegates shall be made in accordance with such estimate. The room designated for the meeting place of any convention shall have ample seating capacity for all delegates and alternates. Every convention shall be called to order by the chairman of the committee with whom the call originates or by a person designated in writing for that purpose by such chairman, and such chairman or person so designated shall have

the custody of the roll of the convention until it shall have been organized. No convention shall proceed to the election of a temporary chairman or transact any business until the time fixed for the opening thereof has arrived and at least a majority of the delegates or respective alternates named in the official roll shall be present. The roll-call upon the election of temporary chairman shall not be delayed more than one hour after the time specified in the call for the opening of the convention, provided a majority of the delegates are present. The temporary chairman of the convention shall be chosen on a call of the roll, and as the name of each delegate is called he shall rise in his place and declare his choice for such officer. The person who calls the convention to order shall exercise no other function than that of calling the official roll of the delegates upon the vote for temporary chairman and declaring the result thereof. The committees of a convention shall be appointed by the convention, or by the temporary chairman, as the convention may order. Unless the convention shall otherwise order, the permanent chairman shall be chosen on roll-call. The permanent officers shall keep the records of the convention, and, within forty-eight hours after the adjournment thereof, shall certify and file the same in the office of the custodian of primary records. Before entering upon their duties, the temporary and permanent chairman of every convention, and the chairman and members of any committee on contested seats therein, shall respectively take an oath to faithfully perform the duties of their offices, which oath may be taken before any officer authorized by law to administer an oath, and shall form a part of, and be filed with, the records of the convention. Each convention shall decide all questions as to contested seats therein. All witnesses examined by or before such committee on contested seats shall be sworn by the chairman or a member thereof to tell the truth, the whole truth and nothing but the truth concerning the matters and things then being investigated by said committee. Any justice of the supreme court within the judicial district in which a convention is about to be held or any county judge of a county in which a convention is about to be held, shall have power, upon application in writing duly verified, stating the purpose and object thereof, to issue a subpoena to any elector applying therefor, requiring any person within the same county or city in which a convention is about to be held, to appear before such convention and testify before a committee on contested seats thereof when appointed concerning any matter which may be investigated by said convention or committee and to produce thereat public records or records of a primary election or a convention of the party of which such convention is about to be held. Such justice or judge shall issue such subpoena upon sufficient ground being shown therefor, but he may deny the applica-

tion if he deems it frivolous or scandalous. Witnesses attending pursuant to such subpoena shall be paid by the applicant the same fees which witnesses are entitled to receive upon trial of an action in a court of record. Any elector desiring to contest the right of any other elector to his seat in a convention shall file with the custodian of primary records a notice of such contest stating the name and residence address of the person whose seat is to be contested, at least forty-eight hours before the time fixed for holding such convention; provided that if a convention is called to be held in less than forty-eight hours from the closing of the polls of the primary election such notice shall be served on the temporary chairman of the convention instead. It shall be the duty of said custodian of primary records to transmit a copy of such notice of contest to the person whose seat is to be contested, either by personal service upon him or through the mail, within twenty-four hours after the receipt of such notice. All oaths administered under the provisions of this act are hereby declared to be oaths required by law, and to be necessary for the ends of public justice. The rules and regulations of the party may prescribe the method of substituting delegates in conventions. No convention, composed of delegates elected in accordance with this act, shall be held until after the primary day on which delegates thereto or delegates to conventions to elect delegates thereto shall have been elected.

Vacancies in delegation.—Where a political party has adopted a rule conferring power upon delegations to fill vacancies in the delegation, it is not improper for the chairman to call a meeting three hours before the convention, on written notice served on each delegate, and appoint substitutes for delegates not appearing at that time, provided, however, that no regular delegate appearing at the convention itself is excluded from voting thereat. (*Matter of Kennedy*, 36 Misc. 721; 74 N. Y. Supp. 369.)

§ 11. Jurisdiction of, and review by, the courts.—Any action or neglect of the officers or members of a political convention or committee, or of any inspector of primary election, or of any public officer, or board, with regard to the right of any person to participate in a primary election, convention, or committee, or to enroll with any party, or with regard to any right given to, or duty prescribed for, any elector, political committee, political convention, officer or board, by this act, shall be reviewable by the appropriate remedy of mandamus or certiorari, as the case may require. In addition thereto, the supreme court, or any justice thereof within the judicial district, or any county judge within his county, shall have summary jurisdiction, upon complaint of any citizen, to review such action or neglect. Such a complaint shall be heard upon such notice as the said court or justice or judge thereof shall direct. In reviewing such action or neglect, the court, justice, or judge shall consider, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the questions arising in reference thereto, and shall make such decision and order as, under all

the facts and circumstances of the case, justice may require. For any of the purposes of this section, service of a writ of mandamus, certiorari, order or other process of said court or justice or judge thereof upon the chairman or secretary of such convention, committee, or board, shall be sufficient.

Correction of mistakes.—An elector who, by mistake, wrote his name in the wrong party column, when enrolling for the primaries, is not entitled, under this section, to an order requiring the police board to correct the mistake. (*People ex rel. Smith v. York*, 34 Misc. 120; 68 N. Y. Supp. 741.)

§ 12. **Nomination of candidates at primary elections.**—In case the general committee representing a party in any city or village to which this act is applicable, or in a county wholly within any such city, or in a borough of any such city, shall adopt, by a majority vote, a rule that the nomination of that party's candidates for specified public offices to be filled wholly from such subdivision shall be made at the primary elections of the party, then so long as such rule remains in force, the nomination of that party's candidates, for the public offices specified in such rule, shall be made by the enrolled members of the party at the official primary elections of the party held on the annual primary day. Such rule shall be adopted at least thirty days prior to said annual primary day and published, in the manner in which notices of primary elections are required to be published by this act, at least twenty days before such primary election. In case nominations for city or ward offices are made in primary election districts under a rule adopted as prescribed in this section, certificates showing the result of the votes for the several candidates for nomination in the several districts shall be made by the boards of inspectors thereof and filed in the office of the custodian of primary records who shall determine from such certificates the persons nominated for such offices. (*Thus amended by chap. 202, L. 1900.*)

§ 13. **Option to certain parties.**—No party which, at the last preceding election of a governor, cast less than three percentum of the entire vote cast in the state for governor, shall be subject to the provisions of this act, unless on or before the first day of July, in any year, such party shall elect to come in under the same. The evidence of such election shall be a certificate filed by the chairman and secretary of the state committee of such party with the secretary of state and with the custodian of primary records for each city and village to which this act is applicable. In case such a certificate shall be so filed, the party on behalf of which it is filed, shall be subject to the provisions of this act on and after the first day of registration next succeeding, and thereafter its enrollment, primary elections, conventions and committees shall proceed in accordance therewith until such time as a certificate of its election to be no longer subject to the provisions of this act shall be filed with the officers above mentioned.

§ 14. Application of this act to cities of the third class and villages.—No city of the third class or village shall be subject to the provisions of this act, unless the general committee for the county in which such city or village is situated, of each party entitled to be represented by inspectors of election in such city or village, shall have adopted a resolution declaring that they desire to come in under the provisions of this act, and shall have filed, on or before the first day of July, in any year, a duly attested copy thereof with the secretary of state and with the county clerk of such county; or unless the electors of such city or village shall have voted at a general election to come in under this act. In such case such city or village shall be subject to the provisions of this act on and after the first day of registration next succeeding, and the custodian of primary records shall provide the necessary enrollment books prior to such day. The question whether or not any such city or village shall come in under this act shall be submitted to the electors thereof whenever the general committee of either of said parties, for the county in which such city or village is situated, shall by resolution request such submission and shall file a duly attested copy of such resolution with the secretary of state and with the county clerk, not less than sixty days before any general election, or whenever not less than sixty days before any general election the electors of any city or village to which this act is applicable equal in number to at least one-tenth of the votes cast therein at the next preceding election for state officers shall by a petition similar in form and manner of execution to the petition required by the election law for independent nominations request the mayor of such city or the board of trustees of such village to submit the question whether this act shall be made applicable to such city or village to the electors thereof at a general election; in either of which cases it shall be the duty of the proper council or board or other officers of such city or village to provide by ordinance, resolution or otherwise, for the submission of such question to the electors thereof at the next ensuing general election; and such submission shall, so far as possible, be made in the manner now prescribed by law for submitting proposed amendments to the constitution

of the state to the electors thereof. A similar procedure shall take any such city or village which has so elected to come within the provisions of this act out of such provisions and make them thereafter no longer applicable to such city or village; but if the decision to come under this act was made at a general election, such decision can be changed only at a general election.

§ 15. **Repealing clause.**—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed, in so far as they apply to the parties and in the places to which this act is, or shall be applied; except that nothing herein contained shall be construed as preventing the use of the existing original enrollment books at any primary election held prior to the first day of January in the year nineteen hundred, and said enrollment books shall continue and be used at all primary elections held under the provisions of this act prior to that time, provided, however, that in case new enrollment books shall have been prepared by the custodian of primary records, pursuant to the provisions of subdivision nine of section three of this act, such new enrollment books shall be used at all such primary elections.

L. 1902, Chap. 195.

AN ACT to provide for the enrollment of members of political parties in towns.

Became a law, March 21, 1902, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Application of act.—Section 1. This act shall not apply to any of the counties embraced within Greater-New York, nor to cities of the second or third class, nor to any village which shall be or become subject to the provisions of chapter four hundred and seventy-three of the laws of eighteen hundred and ninety-nine, entitled "An act to amend chapter one hundred and seventy-nine of the general laws of eighteen hundred and ninety-eight, entitled 'An act in relation to the enrollment for political parties, primary elections, conventions and political committees,' relative to the enrollment for and holding of primary elections." In any county of the state, other than those embraced within Greater New York, it shall become applicable, and govern and control the enrollment of the members of any political party in the several towns of the county, except as above specified, from the first day of September, succeeding the adoption by a majority vote of the general committee of the party, which shall include the affirmative vote of a majority of all the members thereof elected from the towns of said county, and filing in the office of the clerk of the county, of a resolution in writing, declaring that the members of such party shall thereafter be enrolled as herein provided; but shall not affect any primary election held prior to the first day of January next thereafter, and in any such county the general committee of any party to which this act may be so applicable, may similarly adopt and file a resolution rescinding such declaration, and thereafter the application of this act in any such county shall cease. This act shall not apply to the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Livingston, Madison, Montgomery, Nassau, Oneida, Onondaga, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, Saint Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester and Yates.

Enrollment books.—§ 2. In any county to which this act shall so become applicable, the clerk of the county shall cause to be prepared, on or before the fifteenth day of September in each year, enrollment books to the number of two for each election district in the several towns of the county, which shall be so arranged that the names of all electors of the election district may be inscribed therein alphabetically. There shall be fourteen columns on each page. The first for the surnames of the electors; the second for the christian names of the electors; the third for the word "yes", if the elector be enrolled by the election inspectors upon their own knowledge; the fourth for the name of any elector making oath to the party affiliation of any other elector; the fifth for the name of the party with which an elector is enrolled; the sixth for an entry to show enrollment by certificate; the seventh for the record of any alteration of enrollment, transfer, or striking from the enrollment the name of any elector; the eighth for the word "voted", in case the elector votes at the first official primary election of the year; the ninth for a record as to challenges, in case of challenge thereat; the tenth and eleventh for similar entries, in case he votes at the second official primary election of the year; the twelfth and thirteenth for similar entries, in case there be a third official primary election, or an unofficial primary election; and the fourteenth for any remarks not provided for in any of such other columns. Said books with proper instructions shall be delivered by the said clerk to the election inspectors of the respective election districts in said towns immediately before the first day of registration in each year.

Entry in enrollment books; duties of election officers.—§ 3. It shall be the duty of the election inspectors of the respective election districts in said towns, on the days on which they shall prepare the register of electors in said election districts respectively, and at the same time, to enter in the said enrollment books the name of every elector registered by them, for the purpose of voting at such election, whose political affiliation shall be personally known to them, and after the name of each such elector to enter in the third column the word "yes" to indicate such enrollment by them, and in the fifth column the name of the party with which he is so enrolled, and if it shall be shown to them by any duly registered elector of such district, under oath, that any other elector so registered by them, whose party affiliation is not personally known to them, is actually affiliated with any party, it shall be their duty to enter the name of such other elector in said enrollment books and after the name of such elector, in the fourth column, the name of the elector so

making oath, and in the fifth column the name of the party with which such elector shall testify that such other elector is affiliated. At the close of the last day of registration the said inspectors of election shall make and sign a certificate that said enrollment lists so prepared by them contain a correct and true statement of the names of all duly registered electors of said election district who are personally known to them to be affiliated with any political party, or who may have been shown to them, by the oath of any duly registered elector, to be so affiliated with any party, and within twenty-four hours thereafter the chairman of said board of election inspectors shall file one of said enrollment lists with the town clerk of the town containing such election district, and the other of said enrollment lists with the said county clerk. The town clerks of the several towns shall at all times keep on file the blank forms described in sections four, five and six hereof in sufficient quantities for the use of the electors of the town.

Special enrollment; statement to be filed; change of party; when name to be stricken from list.—§ 4. At any time prior to July first thereafter, except during the thirty days preceding a primary election day, any elector who was so duly registered as an elector in any of said towns, but who was not enrolled with any party, may become specially enrolled in, and have his name added to, the enrollment list so filed with the county clerk of any party in the election district in which he then resided and still resides, by making and acknowledging before any officer authorized by law to take the acknowledgment of deeds to be recorded in this state, and filing or causing to be filed with the said county clerk, a statement embodying a declaration in the following form: "I, (.....) do solemnly declare that I reside in (.....) and am a duly qualified elector of the (.....) election district of said town. That at one of the last preceding days of registration I was duly registered as an elector in said election district, but was not enrolled, and I request that I be specially enrolled with the (.....) party. That I am in general sympathy with the principles of the (.....) party. That it is my intention to support generally, at the next general election, the nominees of such party, and that I have not been enrolled with, nor participated in, any primary election or convention of any other party since the first day of last year." And any elector in any of said towns who has been so enrolled with any party, but who has been enrolled with a party other than that with which he is actually affiliated, may have his party affiliation changed upon the enrollment list so made, by striking out the name of the party with which he is so wrongfully described to

be affiliated and inserting the name of the party with which he may declare he is affiliated, by similarly making, acknowledging and filing or causing to be filed a similar statement in all respects, except that he shall declare that he was so wrongfully enrolled and request that his party affiliation be so changed. And any elector in any of said towns who has been so enrolled with any party but who desires to be not enrolled as affiliating with any party, may have his name stricken from the enrollment list as so made, by similarly making, acknowledging and filing or causing to be filed a statement, embodying a declaration in the following form: "I, (.....) do solemnly declare that I reside in (.....) and am a qualified elector of the (.....) election district of said town. That at one of the last preceding days of registration I was duly registered as an elector in said election district and was enrolled with the (.....) party, and I request that my name be stricken from said enrollment list and be not borne thereon as affiliated with any party." Upon the filing of any such statement, the said county clerk shall cause the request contained in such statement to be complied with, by adding the name of the elector, by changing the party affiliation, or by striking out the name of any enrolled elector, as the case may be, in the enrollment list filed with him for the proper election district and recording in the proper column thereof the reason therefor.

Enrollment of voters who become of age after preceding election.—§ 5. Any elector in any of said towns who shall have become of age after the last preceding general election, may at any time other than during the thirty days next preceding a primary election day, become specially enrolled in, and have his name added to, the enrollment list so filed with the county clerk, of any party in the election district in which he resides by similarly making, acknowledging and filing or causing to be filed with the county clerk a statement embodying the declaration first set forth in the last section, except that instead of the words indicating that the elector was registered on one of the last preceding days of registration but was not enrolled, words indicating that he has become of age since the last preceding general election shall be used. Upon the filing of such statement, the said county clerk shall enroll such elector in the enrollment list filed with him for the proper election district and shall record in the proper columns thereof the name of such elector, the party with which he is enrolled, the fact and date of such special enrollment, and the fact that he has become of age since the last preceding general election.

Effect of change of residence.—§ 6. If after being enrolled as a member of a party in one election district, either by original enrollment or by transfer, an elector shall move into another election district in said county, he may at any time between the first day of January of any year and the thirtieth day before any primary election day, become enrolled therein as a member of the same party, by making, acknowledging and filing, or causing to be filed, with the county clerk, a statement specifying the name of the party with which, and the election district in which, he is enrolled, and the election district into which he has removed, and stating that he resides in the last mentioned election district and desires to be enrolled therein as a member of such party. Upon the filing of such statement, the said county clerk shall enroll the name of such elector in the enrollment list filed with him for the proper election district, specifying the district from which he is transferred, and shall also make a minute, opposite the entry of his name, in the enrollment list filed with him of the election district from which he has removed, showing the election district to which his name is transferred.

County clerk to compile enrollment lists.—§ 7. The said county clerk shall annually thirty days prior to each primary election day, from the said enrollment lists so filed with him, compile enrollment lists for each party to which this act shall then be applicable, of all the enrolled electors of such party in each of the towns of said county, and annex thereto a certificate, under his hand and seal, that the same is a correct and true transcript from the enrollment lists of such party so filed with him, and the changes and alterations therein, of the several election districts comprising such town, and deliver one set of each such lists to the chairman of the general committee of each such party. Such enrollment lists shall conform in all respects to the form of the enrollment lists so filed with him, and all entries in such original enrollment lists shall be shown thereon, except that the names upon such lists shall be arranged in alphabetical order, and each such list shall contain all the names of the duly enrolled electors of such party in the town to which it appertains.

Enrollment lists, when to take effect.—§ 8. The enrollment lists prepared by the election inspectors and so filed with said county clerk shall go into effect on the first day of January following the days of registration on which they were begun, and shall, with any additions or alterations made as herein provided remain in force until the first day of the following January, when they shall be superseded by the new enrollment lists, begun as herein provided.

Who may be enrolled.— § 9. Only electors who were duly registered or who shall have become of age after the last preceding general election, shall be entitled to be enrolled. Only electors duly enrolled as herein provided shall be entitled to participate in the primary elections of the party to which this act shall then be applicable, and no elector so enrolled shall take part in any primary election of any party other than the party with which he shall at the time be so enrolled.

Lists and statements public records; duties of county clerk.— § 10. The enrollment lists herein provided, and any statements filed relating thereto, shall be public records and open for inspection and copying at any time by any person. It shall be the duty of the said county clerk to certify to the correctness of any transcript of any such enrollment lists, or of any part thereof, on the payment of one cent for every twenty names contained therein, and the fees received by him therefor shall be paid to the county treasurer except in counties where the county clerk is not a salaried officer. And the said county clerk shall give to any elector enrolled or transferred as herein provided, a certificate of enrollment or transfer, upon request, which shall specify the name of the party with which he is enrolled, the date of enrollment or transfer, and the election district from which such elector is enrolled or to which he has been transferred.

Primary elections, how conducted; challenges.— § 11. Primary elections in the said towns, notice thereof, and the manner and method of conducting the same, shall continue to be held and governed in the manner provided by law and the rules and regulations of the general committees of the respective parties in said county, except as herein provided, and except that any enrolled elector may be challenged at any time before his ballot is cast, and upon such challenge the chairman presiding at such primary shall forthwith put to him, on oath or affirmation, the following questions:

Are you (using the name by which he is enrolled)?

Do you reside, and have you for thirty days past, resided in the town of (naming the town containing the election district in which he is enrolled)?

Are you affiliated with, and do you intend generally to support the candidates of the party (naming the party holding the primary at which such elector offers to vote)? And unless all of such questions be answered in the affirmative, the vote of such elector shall, notwithstanding his enrollment, be rejected.

said general committees may make and provide such rules and regulations as may be necessary to give effect to this act.

Review of action of county clerk.—§ 12. Any action or neglect of the inspector of election, or of the said county clerk, with reference to the proper enrollment of any person as herein provided, shall be reviewable by the proper remedy of mandamus or writ of habeas corpus, as the case may be, and in addition thereto the circuit court, or any justice thereof, within the judicial district containing the county or the county judge or special county judge of said county, shall have summary jurisdiction, upon complaint of any citizen, to review such action or neglect, by such court, justice, judge, or special county judge, may be made, but need not be controlled by, any action or determination of the regularly constituted party authorities upon the grounds arising in reference thereto, and shall make such decree or order as, under all the facts and circumstances of the case, justice may require.

Expense a town charge.—§ 13. The expenses of making such enrollment lists shall be charged respectively upon the towns in which the same are made.

Misdemeanor.—§ 14. Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

Enrollment by county committee; first enrollment.—§ 15. In any town to which this act may apply as provided in section one of this act, it may be made applicable to all primary elections of a town to be held in the towns therein subsequent to July first, nineteen hundred and two, by the adoption by the general committee of the party and the filing thereof as provided in section one, within twenty days after this act takes effect, of a resolution declaring that the members of such party shall be eligible for the primary elections to be held in such county beginning with the year nineteen hundred and two, and thereafter, as provided in this act. And for the purpose of holding such primary elections during the present year there shall be a special election day upon the second Tuesday in May, nineteen hundred and two, upon which day the election inspectors shall meet in the respective places where the last general election was held, or if the same be impracticable, in such places as shall be provided in the same manner as places for holding general elections are now provided, and proceed to make an enrollment of electors in their several election districts in the manner herein provided, for which purpose the county clerk shall furnish them with the necessary enrollment books and instructions.

and the same procedure shall be had with reference to additions or alterations therein as is herein provided for the enrollment books begun upon the regular days of registration. And the enrollment lists so filed and prepared by said county clerk, with the additions and alterations therein, shall become and be the enrollment lists for such official primary elections of such party for the present year ; and thereafter shall be superseded by the regular enrollment lists of such party begun and completed as hereinbefore provided.

§ 16. This act shall take effect immediately.

FORMS FOR PRIMARY LAW.

FORM No. 1.

(See § 3, sub. 4.)

Statement and declaration for special enrollment.

Albany, N. Y., 1899.

"I, (naming the elector) do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district (or ward) in the city (or village) of (naming it); that at one of the last four preceding days of registration I registered as a voter, in the said election district, but did not enroll, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor."

(Signed)

STATE OF NEW YORK, } ss.:
County of ,

On this day of , 1899, before me personally came , to me known to be the person described in, and who executed the foregoing statement and declaration, and he acknowledged to me that he executed the same for the purposes therein mentioned.

Notary Public.

FORM No. 2.

(See § 3, sub. 6.)

Statement for enrollment into another election district.

I, , for the purpose of being enrolled in another election district, hereby make the following statement: I am now enrolled with the party in the election district of the ward (or assembly district) of the city (or village) of and having moved into the election district of the ward (or assembly district) of the city (or village) of and now residing in the last-mentioned district desire to be enrolled therein as a member of the party.

(Signed)

STATE OF NEW YORK, } ss.:
COUNTY OF ,

On this day of , 1898, before me personally came , to me known to be the person described in, and who executed the foregoing statement, and he acknowledged to me that he executed the same for the purposes therein mentioned.

Notary Public.

FORMS FOR PRIMARY LAW.

FORM No. 8.

(See § 3, sub. 5.)

Statement and declaration of elector who has become of age after last preceding general election.

Albany, N. Y., , 1899.

"I, (naming the elector) do solemnly declare that I reside at (specifying his residence address), and am a qualified voter of the (specifying the number) election district of the (specifying the number) assembly district (or ward) in the city (or village) of (naming it); that I have become of age since the last preceding general election, and I request that I be specially enrolled with the (naming it) party; that I am in general sympathy with the principles of the (naming it) party; that it is my intention to support generally at the next general election, state or national, the nominees of such party for state or national offices; and that I have not enrolled with or participated in any primary election or convention of any other party since the first day of last year. The word 'party' as used herein means a political organization which at the last preceding election of a governor polled at least ten thousand votes for governor."

(Signed)

.....

STATE OF NEW YORK, } ss.:
COUNTY OF ,

On this day of , 1898, before me personally came , to me known to be the person described in the foregoing statement and declaration, and he acknowledged to me that he executed the same for the purposes therein mentioned.

.....,

Notary Public (or member of board of election inspectors).

The acknowledgment may be made before any member of the board of election inspectors or before any officer authorized to take the acknowledgment of deeds.

FORM No. 4.

(See § 2, sub. 2.)

Certificate of enrollment.

STATE OF NEW YORK, } ss.:
COUNTY OF , }

I, , custodian of primary records in and for the city (or village) of , do hereby certify that was duly enrolled as a member of the party on the day of , 1898, in and for the election district of the ward (or assembly district) of the city (or village) of .
Witness my hand at the city (or village) of , this day of , 1898.

.....
Custodian of Primary Records.

FORM No. 5.

(See § 3, sub. 9.)

Certificate of transfer.

STATE OF NEW YORK, } ss.:
COUNTY OF , }

I, , custodian of primary records in and for the city (or village) of , do hereby certify that , a duly enrolled member of the party, was on the day of , 1898, transferred from the election district of the ward (or assembly district) of the city (or village) of to the election district of the ward (or assembly district) of the city (or village) of .
Witness my hand at the city (or village) of , this day of , 1898.

.....
Custodian of Primary Records.

FORM No. 6.

(See § 4, sub. 4.)

Certificate of chairman of general committee as to coming elections, etc.

STATE OF NEW YORK, } ss.:
COUNTY OF ALBANY, }

I, , chairman of the general committee of the party of the county of , do hereby certify that the following is a true and correct list and statement of the conventions, committees and

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officers for which delegates (members or candidates, as the case may be) are to be elected at the official primary election to be held on the day of _____, 1898, and the number of delegates to conventions, and members of committees to be elected in each unit of representation.

(Here insert full list and statement.)

Witness my hand at the city (or village) of _____, this
day of _____, 1898.

.....,

Chairman of General Committee.

(To be filed at least twenty days before each official primary day.)

FORM No. 7.

(See § 5, sub. 2.)

**Appointment of inspector to fill vacancy at meeting of board of
primary inspectors.**

. There being a vacancy in the board of primary election inspectors for the _____ election district of the _____ ward (or assembly district) of the _____ city (or village) of _____, held by _____, I (or we), pursuant to the provisions of the primary law, hereby appoint _____, a qualified elector of the district and of the same political party as the absent inspector to fill such vacancy.

Dated this _____ day of _____, 189 .

.....,

.....,

(To be filed with returns.)

Inspectors of Election.

FORM No. 8.

(See § 5, sub. 2.)

**Appointment of elector to act as member of board of primary
inspectors by inspector.**

_____, one of the inspectors of election of the _____ election district of the _____ ward (or assembly district) of the city (or village) of _____, not being present at the meeting of the board of primary inspectors held this day, I (or we), pursuant to the primary law, do hereby appoint _____, a duly qualified elector of the said election district, and a member of the same political party as the absent inspector, to act as a member of the board of primary inspectors in place of until he or his duly appointed successor shall appear.

Dated this _____ day of _____, 189 .

.....,

.....,

(To be filed with returns.)

Inspectors of Election.

FORM No. 9.

(See § 5, sub. 2.)

Designation by electors to fill vacancies in boards of primary inspectors.

The offices of all the inspectors of the election district of the ward (or assembly district) of the city (or village) of , being vacant, we, the undersigned, qualified voters of said district, present, pursuant to the provisions of the primary law, do hereby designate and , duly qualified voters of the said district, and respectively members of the same political party as the absent inspectors to fill such vacancies.

Dated this day of , 189 .

(Should be signed by not less than ten duly qualified electors and filed with returns.)

FORM No. 10.

(See § 5, sub. 2.)

Designation by electors of persons to act as members of board of primary inspectors.

All the inspectors of election of the election district of the ward (or assembly district) of the city (or village) of , not appearing within one hour after the time fixed by law for the opening of the meeting of board of primary inspectors to be held this day, we, the undersigned, duly qualified electors of said district, hereby appoint to act in the place of , and to act in the place of , the said persons so appointed being respectively members of the same political party as the absent inspectors, until such absent inspectors, respectively, appear.

Dated this day of , 189 .

(To be signed by not less than ten duly qualified electors and filed with returns.)

The following are the provisions of the election law as to filling of vacancies at meeting of inspectors:

"If at the time of any meeting of the inspectors there shall be a vacancy in the office of any inspector, or if any inspectors shall be absent from any such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent inspector, to act until such absent inspector, or his successor duly appointed under the provisions of section twelve, shall appear, and such person, if so serving temporarily, shall serve without pay. If at any such time, the offices of all inspectors are vacant, or no inspector shall appear within one hour after the time fixed by law for the opening of such meeting, the qualified voters of the district

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present, not less than ten, may designate four qualified electors of the district belonging to the political parties as specified in section eleven, to fill such vacancies, or to act in the place of such inspectors, respectively, until the absent inspectors respectively appear. If at any time there shall be a vacancy in the office of any poll clerk or ballot clerk, or if any poll clerk or ballot clerk shall be absent from such meeting, the inspector or inspectors present shall appoint a qualified elector of the district, who shall be a member of the same political party as the absent poll clerk or ballot clerk to fill such vacancy. Every person so appointed or designated to act as an inspector, poll clerk or ballot clerk shall take the constitutional and statutory oaths as prescribed by the election law." (*Excerpt from § 14, Election Law.*)

FORM No. 11.

(See § 5, sub. 2.)

Oath for election officers.

STATE OF NEW YORK, }
COUNTY OF ALBANY, } ss.:

I do solemnly swear I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election and of primary election officer, and all duties prescribed by the primary election law, according to the best of my ability.

I do further solemnly swear (or affirm) that I will not in any manner request or seek to persuade, or induce any elector to vote any particular ticket, or for any particular candidate, and that I will not keep or make any memoranda or entry of anything occurring within the booth, and that I will not, directly or indirectly, reveal to any person the name of any candidate voted for by any elector, or which ticket he has voted, or anything occurring within the voting booth, except I may be called upon to testify in a judicial proceeding for a violation of the election law or primary election law.

(Signature of Appointee).....

Sworn and subscribed to this day }
of September, 1898, before me. }

FORM No. 12.

(See § 7, sub. 2.)

Oath and questions upon challenge at primaries.

When any enrolled elector shall be challenged, the chairman, or one of the members of said board, shall forthwith put to him the oath or affirmation: "You do swear (or affirm) that you will fully and truly answer

such questions as shall be put to you touching your right to participate in this primary election."

After taking the oath the following questions shall be put to him, and he shall be allowed to vote if, and only if, he shall make such oath or affirmation, and shall answer in the affirmative, each of the following questions:

Are you (using the name which he has given as his name)?

Do you reside, and have you, for thirty days last past, resided at (giving the address which he has given as his residence)?

FORM No. 13.

(See § 8, subs. 1 and 2.)

Sample.

Board of primary inspectors' returns and statement of canvass.
Original official statement of the result of a (primary) election held on the _____ day of _____, 1898, in the _____ primary district of the _____ ward (or assembly district) of the city (or village) of _____, State of New York, made by the board of primary inspectors of election in and for said district, which return is made as provided in section eight of the primary law.

RETURN OF BALLOTS VOTED.

1. The whole number of ballots actually voted, as shown by the enrollment book, was (four hundred and eighty-five)..... 485
2. The number of ballots cast and found to be entirely blank, all of which were returned by us to the ballot box, were (five)..... 5
3. The number of ballots cast which were rejected by us as "void," and on which no vote was counted for any candidate, all of which are in the sealed package returned herewith, and on each of which ballot is indorsed the reason for such rejection, were (ten) 10
4. The number of ballots cast on which votes were counted for one or more candidates, all of which were returned to the ballot box (except those protested as being marked for identification), were (four hundred and seventy)..... 470
5. The total number of ballots accounted for by us is..... 485

STATEMENT AND RETURN OF THE VOTES FOR THE OFFICE OF _____

1. The whole number of ballots cast on which votes were counted for any candidate for such office was (four hundred and seventy)	470
2. The number of ballots cast and counted on which there was no vote for the office of () were (ten).....	10
3. The whole number of ballots on which votes were counted for the office of () was (four hundred and sixty).....	460
4. Of which (John Doe) received (three hundred and fifteen).....	315
5. (Richard Roe) received (one hundred and forty-five).....	145
Total	460

(Proceed with other offices.)

The number of general ballots "protested as marked for identification" (all of which are in the sealed package returned herewith together with the void ballots) each of which have been indorsed by us "protested as marked for identification," the mark or marking to which objection was made being specified upon the back of each such ballot, and all of which were counted for the several candidates voted thereon in the foregoing returns, were (three)..... 3

But such number does not include any ballot which was rejected by us as void. Such void ballots are included in our return as "void" ballots on which no vote for any candidate was counted and are marked upon the back thereof "void" and indorsed with the reason for so declaring them. They are in the sealed package returned herewith together with the ballots "protested as being marked for identification."

We certify the foregoing statement is correct in all respects.

Dated this day of , 1898.

.....,
,

Board of Primary Inspectors.

NOTE.—A similar certificate is to be made at the bottom of each sheet or half sheet of this return. A duplicate copy of the original statement and return is to be made. The original to be filed with the custodian of primary records and the duplicate statement with the clerk of the city or village.

FORM No. 14.

(See § 8, sub. 2.)

Proclamation of result.

"Hear ye! hear ye!! hear ye!!! The whole number of votes given for the office of _____, found in the box just canvassed, was 1,090; of which number there were given for said office, for James W. Bentley, 595; for Isaac La Grange, 362; for Joseph S. Martin, 153" (naming each person voted for for the office of _____, and the number of votes given for him for that office).

Proceed on with the votes given for the different candidates.

FORM No. 15.

(See § 8, sub. 2.)

Primary board of inspectors' certificate of election of delegates to, or members of, a convention or committees.

STATE OF NEW YORK. } ss.:
CITY (OR VILLAGE) OF

We, the board of primary inspectors of the _____ election district of the _____ ward (or assembly district) of the city (or village) of _____, do hereby certify that the following is a true and correct statement of the total number of votes cast for the respective candidates for the office of _____ and the number thereof received by such persons respectively, at the primary election held in said district on the _____ day of _____, 1898.

The whole number of votes cast for the office of _____	was	
of which _____	received	_____ votes;
	received	_____ votes;
	received	_____ votes.

Blank and rejected _____ votes.

Witness our hands at the city (or village) of _____, this _____ day of _____, 1898.

.....,
.....,

Board of Primary Inspectors.

FORM No. 16.

(See § 8, sub. 2.)

Statement of delegates and committeemen elected outside of cities and villages.

STATE OF NEW YORK, } ss.:
CITY (OR VILLAGE) OF

We, the presiding officers of the primary election held in the town of _____, in the county of _____, on the _____ day of _____, 1898, do hereby depose and say that the following is a true and correct statement of the delegates and members of the general committees of the county of _____, elected at such primary.

(Here insert names, etc.)

.....,
.....,

Presiding Officers.

Severally subscribed and sworn to before me, }
this _____ day of _____, 1898. }

.....,

*Notary Public.***FORM No. 17.**

(See § 8, sub. 4.)

Custodian of primary records' statement of result of primary elections.

STATE OF NEW YORK, } ss.:
COUNTY OF _____,

I, _____, custodian of primary records in and for the city (or village) of _____, having canvassed the original statement of boards of primary inspectors filed with me in the manner directed by law, do hereby certify as follows, to wit:

That it appears upon such canvass that the whole number of votes given for the office of _____ was _____,
of which _____ received _____ votes;
_____ received _____ votes;
_____ received _____ votes.

Witness my hand, at the city (or village) of _____, this _____ day of _____, 1898.

.....,

Custodian of Primary Records.

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FORM No. 18.

(See § 8, sub. 4.)

Certificate of nomination by custodian of primary records.

STATE OF NEW YORK, } ss.:
COUNTY OF ,

I, , custodian of primary records, do hereby certify according to the original statements of canvass of the result of the primary elections held in the of the on the day of in the year 1898, filed with me in the manner directed by law, that was duly nominated as a candidate for the office of

Witness my hand, at the city (or village) of , this day of , 1898.

.....,
Custodian of Primary Records.

FORM No. 19.

(See § 8, sub. 8.)

Certificate of election by custodian of primary records.

STATE OF NEW YORK, } ss.:
COUNTY OF ,

I, , custodian of primary records, having canvassed the whole number of votes cast for the office of , at the primary elections held in the several districts of said on the day of , 189 , according to the original statements of the said votes filed with me, in the manner directed by law, do hereby certify that was by the greatest number of votes cast at the said election duly elected a

Witness my hand at the city (or village) of , this day of , 1898.

.....,
Custodian of Primary Records.

Chap. 674.

AN ACT to provide the manner in which, and the time and place at which the qualified voters of the state absent from their respective election districts, in time of war, in the actual military service of this state or of the United States, in the army or navy thereof, may vote; and for the return and canvass of their votes in the election districts in which they respectively reside, and making an appropriation therefor.

Became a law July 16, 1898, with the approval of the Governor.
Passed, three fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. **Time of election.**—Whenever, in time of war, any qualified elector of this state shall be in the actual military service of this state or of the United States, in the army or navy thereof, and by reason thereof absent from his election district, such absent elector shall be entitled to vote as fully as if he were present at his place of residence in the manner hereinafter provided.

§ 2. **General register of absent electors.**—It shall be the duty of the secretary of state to prepare and make a general register in which shall be enrolled in alphabetical order the names of the electors of this state absent from their respective election districts in time of war in the actual military service of this state or of the United States in the army or navy thereof. Such general register shall contain the name and residence, by street and number if any, the name of the county and city or town in which each such absent elector resides, so far as he can ascertain the same. It shall also contain the name or number or other designation of the regiment, company, troop, vessel or other command to which each such absent elector is attached or assigned, and the location of such command at the time of such entry, so far as he can ascertain the same. In order to secure

the necessary information to make and complete such general register, it shall be the duty of the secretary of state to prepare proper blanks and forward the same to the commanding officer of each command in which there are any such absent electors of this state, to be filled out with the necessary information, attested by him, and returned forthwith, securely sealed, to the secretary of state. Such general register shall be a public record and shall at all reasonable times be open for inspection by any elector of this state. It is hereby made the duty of every public officer, and of every citizen, to render such assistance and information as he may possess, to the secretary of state, of all the facts relating to such absent electors; and any person who shall refuse so to do, or wilfully furnish false information in reference to such absent electors, shall be deemed guilty of a felony and shall, upon conviction thereof, be punished by imprisonment in a state prison for not less than one year nor more than three years.

§ 3. Poll-books and oaths.—It shall be the duty of the secretary of state to cause to be prepared and printed in book form a sufficient number of poll-books, at least two books for each poll, for the use of the inspectors of election at the polls of the elections held under the provisions of this act. Such poll-books shall be in the general form of those prescribed for use at elections in this state, omitting all columns except those for the number, name and residence of each elector, so arranged that there can be entered therein, in addition to such entries, in separate columns, the name of the county and city or town in which the persons voting at such poll reside or claim to reside; and also the designation of the particular command to which each such person is attached or of which he forms a part. Upon the first page of each such poll-book shall be printed the date and character of the election for which it is prepared, and blank spaces in which shall be written by the inspectors the place at which the poll was held, and the names and residences of the persons acting as inspectors of election thereat. Upon the page, following the last page of each such poll-book used for recording the names of voters at such poll, shall be printed a blank certificate, to be

signed by the inspectors of election at the close of the polls. Such certificate shall be substantially in the following form:

"We, the inspectors of election for the general (or special) election held at (here follows the name of the place) on the..... day of 18..., do hereby certify that the names of the persons enrolled herein as having voted at such election, such persons numbering in all (here follows the number in figures and words) are all the persons who appeared before us and demanded to vote at such election, and took the oath required, and who voted at such election.

.....

Inspectors of election.¹

Such poll-books shall also contain the oaths for the inspectors of election provided in section ten hereof.

§ 4. **Official ballots.**—It shall be the duty of the secretary of state to cause to be prepared and printed at least twice as many official ballots in the form hereinafter prescribed as there are electors absent from their respective election districts as shown by such general register. Each such official ballot shall be six inches wide and of such length as to allow one-quarter of an inch for the title of each office printed upon the face thereof and one-half inch for the name of each candidate for such office as the elector may lawfully vote for and one-half inch for the title of each class of offices. Each class of offices shall be separated by a solid black line one-eighth of an inch in depth running across such ballot. All such ballots shall be uniform in size and style of type used and shall contain the titles of all offices, as near as may be for which any elector may vote in any election district of the state at such election. The type and paper for such ballots shall conform generally to that used for the official ballots prescribed by the election law of this state. Such ballot shall be printed in substantially the following form:

STATE OFFICES.

For Governor.

For Lieutenant-Governor.

JUDICIAL OFFICES.

For Associate Judge of the Court of Appeals.

Justice of the Supreme Court for.....Judicial District.

LEGISLATIVE OFFICES.

Representative in Congress for.....Congressional District.

For State Senator for.....Senate District.

Member of Assembly forDistrict ofCounty

COUNTY OFFICES.

For Sheriff of.....County.

For District Attorney of.....County.

CITY OFFICES.

For Mayor of the City of.....

WARD OR TOWN OFFICES.

For Supervisor of.....Ward or Town of.....

For Justice of the Peace, Town of.....

ELECTION DISTRICT OFFICES.

r Inspectors of Election forElection District, Town of

Upon the back of each such ballot shall be printed the words:

“OFFICIAL WAR BALLOT

For the general (or special) election, held November....., 18....”

§ 5. **Provision for official envelope.**—He shall also cause to be prepared and printed at least twice as many official envelopes as there are electors absent from their election districts, as shown by such general register. Such envelopes shall be gummed, ready for sealing. Upon one side of such envelope shall be printed in substantially the following form the following:

OFFICIAL WAR BALLOT

FOR

GENERAL ELECTION, NOVEMBER....., 189 .

Name of Elector.....
Residence (street and number, if any)
County of.....
City or Town of.....

.....
Secretary of State.

Upon the other side of such envelope shall be printed the following oath:

“OATH OF ELECTOR.”

“I do swear (or affirm) that I have been a citizen of the United States for ninety days and am now of the age of at least twenty-one years, or will be on the day of, 18..; that I will have been an inhabitant of the state of New York for one year next preceding this election and for the four months preceding such election a resident of the county of, and am a qualified elector, residing at (street and number, if any), in the (city or town of); that I am in the actual military (or naval) service of the state of New York or of the United States, and at present attached to (here state the

particular command to which attached); and that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that I have not made or become directly or indirectly interested in any bet or wager depending upon the result of this election, and that I have not been convicted of bribery or any infamous crime, or, if so convicted, that I have been pardoned and restored to all the rights of a citizen."

If at such election any proposed amendment to the constitution or other proposition or question is to be submitted to the vote of the electors of the state, the secretary of state shall furnish an equal number of ballots for questions so submitted in the form prescribed by section eighty-two of the election law, which shall be properly endorsed, as a war ballot.

§ 6. **Delivery of official war ballots, poll-books and envelopes.**—The secretary of state shall cause to be delivered to the commanding officer of every command in which ten or more electors of this state are included, absent from their respective election districts in time of war in the actual military service of this state or the United States in the army or navy thereof, a sufficient number of official war ballots of each kind and official envelopes; at least twice as many as there are such electors in such command; and two poll-books for the use of such electors at each poll of each election held under the provisions of this act. Such official war ballots, poll-books and envelopes shall be delivered in time for use at the election for which they are prepared, in such manner and by such means as shall in the judgment of the secretary of state be deemed best suited to secure their safe and timely delivery for the use of the electors at the election for which they have been prepared.

§ 7. **Lists of nominations.**—It shall be the duty of each county clerk or board with whom or which certificates of nomina-

tions of public office are filed to cause a certified list of such nominations to be forthwith forwarded by mail to the secretary of state, including the name and residence of each such nominee together with the title of the office for which he is nominated, the party or other political name specified in such certificate of nomination. It shall be the duty of the secretary of state, upon the receipt by him of such certified lists of nominations to communicate so far as practicable, to each commanding officer of a command having therein ten or more electors of this state absent from their respective election districts in time of war, in actual military service of this state or the United States in the army or navy thereof, the name and residence of each person named in any certificate of nomination so certified by a clerk or filed in the office of the secretary of state, together with the title of the office for which he is nominated and the party or other political name specified in such certificates of nomination and upon receipt thereof each such commanding officer shall cause such information to be posted in a conspicuous place in the information of such absent electors in his command.

§ 8. **Polls of election.**—Polls of an election held under the provisions of this act shall be opened on the day of such election at the quarters of the captain or other commanding officer of a company, troop or other command in the military service of this state or of the United States in the army or navy thereof, if the same be composed in whole or in part of electors of this state qualified electors of this state in such command may vote at such poll. Officers and enlisted men, electors of this state, attached to or forming part of a command having therein less than ten such electors, or who shall be detached by military order from their command, may vote at such other poll as may be most convenient for them.

§ 9. **Opening of the polls.**—Any election held under the provisions of this act shall be held upon the day of the general or special election in this state, or on any secular day within ten days next prior thereto, such prior day to be fixed by the commanding officer of any command where the poll or polls for

election shall be held, by proclamation duly made; provided, however, that if by reason of the exigencies of war such election cannot be held in any of the polls herein provided on the day so fixed, such election may be held on the next day practicable thereafter upon like proclamation of the commanding officer of any such command; but such election shall not be held later than the day of such general or special election. Such polls shall be opened at such hour of the day as shall be most convenient for such electors and shall remain open not less than three hours and as much longer as shall, in the opinion of the inspectors of election serving at such polls, be necessary in order to receive the votes of all electors of this state entitled to vote at such polls; but no polls shall be kept open later than sunset of the day on which such election shall be held. The inspectors shall at the opening of such polls make public proclamation of the opening thereof and the time at which such polls shall be closed, and as near as may be, at one hour before the closing of the polls, public proclamation shall again be made by the inspectors that the polls will be closed at a time certain then proclaimed, which shall be the hour announced in the proclamation made at the opening of the polls. The polls shall not for any reason be kept open after the hour fixed by the first proclamation.

§ 10. Organization of the polls.—At the hour and place herein provided for the opening of the polls, the qualified electors of this state then present shall, by viva voce vote, select four of their own number to act at such election as the inspectors of election thereof. Such inspectors shall, so far as possible, be so selected that they shall equally represent the two political parties of this state which at the last preceding election in this state polled the highest and next highest number of votes respectively. Such inspectors, when so elected, shall choose one of their number as chairman of the board of inspectors by election or by drawing lots. Such chairman shall then administer the oath of office to the other inspectors and one of the other inspectors shall then administer the same to the chairman. The oath to be administered shall be as follows:

" I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of inspector of election according to the best of my ability."

Such oath or affirmation shall be written or printed, or partly written and partly printed, and attached to or entered upon the poll-books used at such election, and subscribed by the person taking the same, and certified to by the person administering the same. Immediately upon the organization of such board of inspectors the commanding officers to whom shall have been delivered any official war ballots, poll-books and envelopes shall deliver the same to the inspectors of election of such election and shall take a receipt therefor, which receipt shall be forwarded by mail by such commanding officer to the secretary of state. The said inspectors shall produce and have at the polls, before any votes are taken by them, a box for the reception of the ballots to be voted at such election. Before proceeding to take any votes they shall open said box and publicly exhibit the inside thereof, and the same shall be entirely empty. They shall then close and securely fasten the same and the said box shall not be opened again until the close of the polls at such election. Each such box shall have an opening in the top thereof for the reception of voted ballots. The chairman of the board of inspectors shall have charge of the ballot-box during the election and shall receive from the qualified electors their envelopes containing ballots and shall deposit them in the ballot-box. He shall designate two other inspectors, of opposite political faith, if possible, to keep the poll-books of such election. The remaining inspector shall have charge of the official ballots and envelopes and shall deliver the same to the qualified electors entitled to vote at such election.

§ 11. **Conduct of election.**— The election shall be by ballot. ~~Before any person shall receive an official ballot or be permitted to vote he shall make and subscribe the oath printed upon the official envelope, as provided by this act, and any member of said board of inspectors is hereby authorized to administer and attest~~

such oath. If any elector shall refuse to take the oath so tendered he shall not be allowed to vote; but if he shall take the oath tendered him his vote shall be accepted. Upon taking the oath required, the elector shall give to the inspectors keeping the poll-books, who shall enter upon such poll-book, kept by each of them, his name and residence by street and number, if any, county and city or town. He shall also give such other information as is required to be entered in such poll-book. When such elector gives such information to such inspectors, the inspector having charge of the ballots and envelopes shall write in the proper blank spaces upon such official envelope the name and residence by street number, if any, of such elector, and the county, and the city or town in which he claims to reside, and shall deliver such ballot or ballots and such envelope, to such elector. Such elector shall then retire to some convenient place and shall prepare his ballots and envelope for voting. The elector may write or paste upon his ballot the name of any person for whom he desires to vote for any office for which such elector may lawfully vote at such election. Any such elector may paste upon such ballot a printed ballot of his own selection or preparation, to be known as a paster ballot containing the titles of all the offices to be filled and the names of the candidates therefor for whom he desires to vote and be entitled to vote at such election. Such paster ballot may be gummed and the elector may paste the whole or any part of such paster ballot upon the official ballot. Any name so written or pasted upon the official ballot shall be deemed the choice of the elector. All pasters shall be of white paper and printed in type uniform with that required to be used upon the official ballot and printed in plain black ink. A paster shall be so attached to the ballot that when the ballot is folded no printed portion of such paster shall be visible. After preparing his ballot and before delivering the same to the chairman of the board of inspectors, the elector shall fold his ballots in such a way that the contents of the ballot shall be concealed and enclose the same in such envelope which he shall securely seal. He shall then deliver such envelope to the chairman of the board of inspectors;

but before such envelope shall be deposited in the ballot-box the chairman shall declare from such envelope the name of such elector and his residence by street and number, if any, county and city or town, and if such elector is entitled to vote and such envelope is securely sealed and his name and the other matter hereby required, is recorded upon the poll-books the inspector keeping such poll-books shall announce the same as correct and shall record such elector as voting. The chairman shall thereupon deposit such envelope containing such ballot or ballots in the ballot-box. Any elector so having voted, shall not again be entitled to vote at such election, though present on election day in the election district where he resides. If, for any cause, the official ballots, poll-books and envelopes shall not be provided as required by law at any polling-place, upon the opening of the polls for any election thereat, or if the supply of official ballots or envelopes shall be exhausted before the polls are closed, unofficial ballots, poll-books and envelopes printed or written, made as nearly as practicable in the form of the official ballot, poll-books and envelopes may be used.

§ 12. **Count of the votes.**—As soon as the polls of an election are closed, the inspectors of election thereat shall publicly destroy all official envelopes and ballots not voted; and shall then publicly open such ballot-boxes and count and ascertain the number of electors voting and not adjourn or postpone the count until it shall be fully completed. The board of inspectors shall commence the count by comparing the two poll-books used at such election, correcting any mistakes therein, and by counting the envelopes containing ballots found in the ballot-boxes without opening them, and by comparing the envelopes containing ballots found in such box with the number shown by the poll-books to have been deposited therein. The inspectors shall number each elector whose name is recorded in such poll-books as having voted beginning with the first name entered therein and numbering the same in consecutive order and shall fill out and sign the certificate required to be made by them as to the whole number voting at such election. If the envelopes containing ballots found in such

Box shall be more than the number of such envelopes so shown **by** the poll-books to have been deposited therein the inspectors **shall** compare the names upon such envelopes with the names recorded in such poll-books and all such envelopes so found in **said** ballot-box purporting to have been deposited therein by an elector whose name is not duly entered in such poll-books as **herein** provided, shall with their contents be immediately destroyed, without opening the same; and if more than one such envelope shall be found in **said** ballot-box purporting to have been deposited therein by the same elector, then all such envelopes and their contents purporting to have been deposited in such ballot-box by such elector shall be destroyed. No such envelope that has not the official endorsement as herein provided shall be counted. At the completion of the count the inspectors shall certify the correctness of the same upon the poll-books and shall publicly announce the result of such count. The inspectors shall thereupon enclose all such envelopes containing ballots without opening the same, in a sealed package with one of said poll-books and shall direct them to the secretary of state, at Albany, New York, and shall forward the same by mail or express to him as soon as possible after such election. The other of such poll-books shall be sealed in an envelope directed to the governor of the state of New York, at Albany, New York, and shall be forwarded forthwith to him by mail or express, but by different hands, if possible, from those carrying such envelopes containing ballots and such poll-books, so directed to be forwarded to the secretary of state; receipts therefor, respectively, being taken by the chairman of the board of inspectors.

§ 13. **Returns not to be rejected because of informality of election.** — No mere informality in the manner of carrying out or executing the provisions of this act shall invalidate the election held under the same or authorize the rejection of the returns thereof; and the provisions of this act shall be liberally construed for the purposes herein expressed or intended.

§ 14. **Disposition of envelopes and ballots.** — Upon the receipt by the governor of the poll-books of the votes cast at any such

election, he shall deliver the same to the secretary of state. The secretary of state shall upon receipt of the packages notify the chairman or any member of the state committees of the parties which at the last election for governor cast the highest and the next highest number of votes for such office, that at a day and hour named therein at his office he will open the packages and compare the poll-books with the envelopes containing ballots received by him and with the poll-books if any received from the governor. Such notice shall be served personally or by mail directed to the last known place of residence of such person. He shall forthwith prepare from said poll-books and envelopes a separate statement for each county under his official seal in which shall appear all the information hereby required to be entered in such poll-books, concerning the electors resident in such county. He shall affix his seal of office to each such envelope and shall transmit such statement with all the envelopes containing ballots of such electors resident in such county, to the clerk of each such county, except that in any county within the city of New York where such statement and envelopes shall be transmitted to the police board, or such other persons or board as may hereafter be lawfully constituted to receive election returns, taking his or their receipt for such statement and the number of such envelopes. Such county clerk or in the counties within the city of New York, board of police or other person or body lawfully constituted to receive election returns, shall forthwith give written notice of such receipt by them, to the board of inspectors of election of each district to which they respectively relate, by enclosing such notice in a properly sealed wrapper addressed to the chairman of such board at his post-office address and by prepaying the postage thereon. Each county clerk and said police board, said person or other body lawfully constituted to receive election returns, after the receipt of such statement and envelopes, shall notify the chairman or any member of the county committees of the parties which at the last election for governor cast the highest and next highest number of votes for such office in the state, that at a day and hour named therein at his or their office he or they will open the packages containing such statement and envelopes. Such notice shall be served per-

sonally or by mail directed to the last known place of residence of such person. It shall be the duty of such county clerk and said police board or said other person or body lawfully constituted to receive election returns, to prepare a statement in like form for each election district in said county in which any such elector shall reside, and to transmit or deliver such statement with the envelopes containing ballots of electors resident in such election district to one of the inspectors of election of said district, taking his receipt therefor, on the day before the board of inspectors of election of said district shall convene for the purpose of canvassing such votes, as herein provided, who shall deliver the same to such board. All statements provided by this act shall be public records. The inspectors in any election district wherein any such ballots are to be canvassed, shall convene at the place where the election was held, on the sixth Tuesday after the election day at ten o'clock in the forenoon to canvass such votes. It shall be the duty of each board of inspectors of election immediately upon their convening as herein provided to open said polls; and the chairman thereof or, in his absence, such other member as shall be chosen to act as chairman, as provided by law, shall publicly read aloud the endorsement contained upon each such envelope, and if such elector shall be a qualified elector in such election district, the chairman or acting chairman shall then carefully open said envelope and without unfolding or inspecting the contents of such ballot or ballots, shall deposit the same in the ballot-box or boxes provided therefor. If any such envelope shall contain more than one ballot for the same officers, amendment or question, all ballots therein shall be rejected. Said inspectors shall file all such envelopes with their return in the office of the county clerk of the county where the said election district is situated. If upon investigation made before the deposit of said ballot it shall be determined that such elector is not a qualified elector in said election district, his said ballot or ballots shall be destroyed without unfolding or inspecting the same, and the said envelope shall be filed as above provided. (*Thus amended by chap. 641, L. 1899.*)

§ 15. Canvass by election district and county canvassers.— After all such ballots shall have been cast, said inspectors of election shall immediately proceed to canvass the same, and make a statement and return thereof as provided by law, and forthwith forward the same to the county clerk, by one of their number. The county board of canvassers or such other board as performs like duties, shall convene on the seventh Thursday after the election day, at their usual place of meeting, at one o'clock in the afternoon for the purpose of canvassing such statements and returns. (*Thus amended by chap. 58, L. 1899.*)

§ 16. Canvass by county board.—At such meeting of the county or other canvassing board the said board shall proceed to canvass such statements and returns of the respective election district boards of inspectors and shall from such statements and returns, together with the statements and returns theretofore made of such election, make new and separate statements of the votes cast in such county or any part thereof, and shall complete their canvass and make the statements provided for by section one hundred and thirty-five of the general election law, and they shall not, until such meeting, determine the result of the election, anything now provided by law to the contrary notwithstanding. But nothing herein shall prevent any county board of canvassers from proceeding as provided by the election law except as to such final determination. Such meeting or meetings of the board of county canvassers shall be deemed a continuation of its regular session.

§ 17. Canvass by state board.—If any such new statements shall be made by a county board after the time fixed by law for the canvass of the regular statements of the county boards by the state board of canvassers, the state board of canvassers shall convene upon notice by the secretary of state and shall proceed to canvass such new statements of a county board, and their original canvass, if any, shall be corrected accordingly; and the state board of canvassers shall cause a determination of such result to be made in accordance with such new statements. And they shall not, until such meeting, determine the result of the election, anything now provided by law to the contrary notwithstanding.

§ 18. Returns or statements not made and filed prior to certain dates in any year not to be canvassed.—No statement, as provided by this act, which shall not have been duly made and filed by a county board of canvassers prior to the twenty-ninth day of December next succeeding such election in any year, shall be canvassed or affect the result of such an election; and no return or statement not received by a county board of canvassers at their

meeting, herein provided for, shall be thereafter canvassed, or affect the result of such election.

§ 19. Provisions of penal code relating to crimes against the elective franchise to apply.—All the provisions of the penal code relating to crimes against the elective franchise shall be deemed to apply to all elections held under the provisions of this act, and any person who shall violate any such provisions may be indicted at any time in any county of this state and may be fined or imprisoned or both so fined and imprisoned upon conviction thereof whenever found in this state.

§ 20. Filling vacancies in the office of inspector of elections.—It shall be lawful for a majority of the inspectors of election, provided for by this act to execute all the trusts and duties required to be executed by the inspectors herein provided for. And if for any cause, after the inspectors of election hereinbefore provided for shall have been chosen, any of the said inspectors shall permanently absent himself from the place of holding such election, or shall for any cause be obliged permanently to leave the place of holding such election, the remaining inspectors, or on their default the electors present may fill such vacancy preserving, if possible, the bi-partisanship of such board; and any person so appointed to fill such vacancy shall take the oath of office and shall thereupon continue with the other inspectors to perform the duties of such office at such election to the end thereof.

§ 21. Elections may be contested.—All elections held under this act shall be subject to contest and inquiry in the same manner as elections held within this state. The sealed packages of voted ballots shall be held inviolate in the office in which they are filed, subject to the order of a court of competent jurisdiction and may upon such order of such court be opened and canvassed.

§ 22. General provisions of the election law to apply.—The several officers or persons authorized by the provisions of this act to conduct the elections held by virtue thereof shall have the like powers, and they, as well as other persons who may be candidates for office at such election, or who may attend such election,

or may vote or offer to vote at such election, shall be subject to the like penalties and restrictions as are declared and provided by law in case of elections within this state, and all provisions of the general election law of this state, as far as applicable and not inconsistent with the provisions of this act shall apply to elections held under this act.

§ 23. Copies of this act to be published and distributed.—The secretary of state shall, immediately upon the passage of this act, cause the same to be published in pamphlet form, properly indexed, and shall cause the same to be as generally, as may be, circulated among the electors of this state absent from their respective election districts in time of war in the actual military service of this state or of the United States, in the army or navy thereof. The secretary of state shall also provide in addition to the necessary official ballots, poll-books and envelopes, such other blank forms, envelopes, instructions to voters, and other stationery for use at each poll of any election held under this act, as may be necessary for the proper conduct of such election and shall transmit them to the proper place and to the proper persons in ample time for their safe delivery and use at such election. He may procure any of the printing and supplies required by this act wherever he deems it desirable for the best interests of the state. He shall also provide for the return of such poll-books, envelopes and ballots of such election to him at the expense of this state.

§ 24. Appropriation. —The sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act.

§ 25. This act shall take effect immediately.

Metropolitan Elections District Law.

Chap. 676.

AN ACT to create a metropolitan elections district; provide for the appointment of a state superintendent therein, and to prescribe his powers and duties.

Became a law July 16, 1898, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly do enact as follows:

Section 1. Metropolitan elections district.—The counties of New York, Kings, Queens, Richmond and Westchester are hereby constituted a metropolitan elections district for the purpose of all elections for state officers hereafter to be held therein.

§ 2. State superintendent of elections, chief deputy and assistants.—The governor, within ten days after this act takes effect, shall appoint an officer, by and with the advice and consent of the senate, to be known as “the state superintendent of elections for the metropolitan elections district.” He shall be a resident of one of the aforesaid counties and shall hold office for the term ending December thirty-first, nineteen hundred and two. His successor shall be appointed for the full term of four years, and all terms shall expire on the thirty-first day of December. Vacancies shall be filled for the remainder of the unexpired term. Such superintendent may be removed from office in the same manner as a sheriff. He may appoint a chief deputy without nomination, a clerk and a stenographer, and remove them at pleasure.

§ 3. Powers of superintendent and deputies.—Such state superintendent of elections and each deputy appointed by him, shall possess and exercise all the powers vested in a sheriff, as a conservator of the peace, either by statute or common law.

§ 4. Deputies, appointment, qualification, terms, etc.—Such superintendent may appoint not exceeding six hundred deputy

superintendents of elections for the metropolitan elections district for service in the counties mentioned in the first section of this act, and administer to them the oath of office. On or before the fifteenth day of August said state superintendent shall notify the chairman of each county committee representing a political party in such county in said metropolitan elections district entitled to representation in local election boards therein, that each such party is entitled to nominate one-half the number of deputies to be appointed, and shall in such notification specify the number to be nominated by the party so notified, and that written nominations for such appointment will be received by him on or before a specified date. A deputy state superintendent must possess the qualifications of election officers required by the election law, except that he need not be a resident of the election district in which he serves. Each such chairman of a county committee may present to the state superintendent a list containing the number of names specified in the notice given by the superintendent to the said chairman, and appointments shall be made from such lists or from a supplemental list as herein provided. One-half of the appointments so made shall be made from each of the parties making such nomination, provided, however, that all persons so appointed shall possess the qualifications required by law. All persons so proposed for appointment may be examined as to their possessing the qualifications required by section eleven of the election law, by or under the direction of the state superintendent, who shall give five days' notice in writing of such proposed examination to the person to be examined, and also to the chairman of the committee or other person by whom the list was filed and authenticated, and such chairman or other person may appear and be heard on such examination, either in person or by counsel. If a person so nominated is not examined, or if after examination he is found qualified, under section eleven of the election law, he shall be appointed. If a person so proposed is found disqualified after examination, notice in writing to that effect shall be given by the superintendent within three days after such disqualification is determined by him, to the chairman of the committee or other person by whom the list embracing the name of the person so disqualified was authenticated; and such chairman or other person may thereupon file a supplemental list containing the names of persons nom-

inated to fill such vacancies. Additional supplemental lists may also be filed from time to time on notice by the superintendent, until all the appointments to which a party is entitled are made. Any vacancy occurring by disqualification or otherwise shall be filled by the appointment of a qualified person named in a supplemental list filed on behalf of the same party, except that if a party entitled to representation files no original list, nor a supplemental list after notice, the appointment may be made without such lists, and without nomination.

The term of office of a deputy superintendent appointed under this section shall expire on the thirty-first day of December of the calendar year in which he is appointed.

§ 5. **Additional deputies.**—The superintendent, whenever he deems it necessary, may appoint, without nomination, and at pleasure remove, not more than two hundred additional deputies, to be employed by him in enforcing the provisions of this act. Deputies appointed under this section shall not as such be entitled to attend at the polling places on election day, but in all other respects possess the same powers and are charged with the same duties as other deputies appointed under this act. (*Thus amended by chap. 499, L. 1899.*)

§ 6. **Control and powers of deputies; refusal to furnish information.**—All deputies appointed under this act shall be subject to the direction and control of the state superintendent, and he may assign them to any election district in the metropolitan district. Such deputies, when directed by the state superintendent shall, or on their own motion, or on complaint of any citizen of the state may:

1. Investigate all questions relating to registration of voters, and for that purpose shall have power to visit and inspect any house, dwelling, building, inn, lodging-house or hotel within the metropolitan district, and interrogate any inmate, house-dweller, keeper, care-taker, owner, proprietor or landlord thereof or therein, as to any person or persons residing or claiming to reside therein or thereat.

2. Arrest any person without warrant who in his presence violates or attempts to violate any of the provisions of the election law or the penal code relating to crimes against the elective franchise.

3. Execute warrants of arrest and take into custody the person or persons named in such process.

4. Inspect and copy any books, records, papers or documents relating to or affecting the election or the registration of electors.

5. Require every lodging-house keeper, landlord or proprietor to exhibit his register of lodgers therein at any time to such deputy.

Any person who neglects or refuses to furnish any information required or authorized by this section, or to exhibit records, papers, or documents herein authorized to be inspected, or which are required to be exhibited, shall be guilty of a misdemeanor.

§ 7. **Aid and assistance of public officers.**—The state superintendent, or any deputy, may call on any person to assist him in the performance of his duty; and he may also call on any public officer who by himself or his assistants, deputies or subordinates shall render such assistance as may be required. Any such person, public officer, deputy or subordinate who shall fail to render such aid and assistance in the performance of his duty as he shall demand, or who shall wilfully hinder or delay, or attempt to hinder or delay such superintendent or deputy, in the performance of his duty, shall be guilty of a felony and shall upon conviction thereof be sentenced to imprisonment in a state prison for a period of not more than three years; and if a public officer, shall, in addition, to such imprisonment, forfeit his office. A member of a uniformed police force shall for the purpose of this act, be deemed a public officer. The state superintendent shall have power to issue subpoenas for the purpose of investigating any matter within his jurisdiction and of aiding him in enforcing the provisions of this act, such subpoenas to be tested in the name of the state superintendent. He may in proper cases issue subpoenas duces tecum. A subpoena issued by the state superintendent of elections may be served by the said superintendent or by any deputy appointed by him or by any police or peace officer within the metropolitan elections district. Any person who shall omit, neglect or refuse to obey a subpoena attested in the name of the state superintendent or who shall refuse to testify under oath before him or his chief deputy, is guilty of a misdemeanor. The superintendent and his chief deputy, are hereby authorized and empowered to administer oaths and affirmations in the usual appropriate forms, to any

person in any matter or proceedings authorized as aforesaid, and in all matters pertaining or relating to the elective franchise and to take and administer oaths and affirmations in the usual appropriate forms, in taking any affidavit or deposition which may be necessary or required by law or by any order, rule or regulation of the superintendent for or in connection with the official purposes, affairs, powers, duties or proceedings of said superintendent or deputies or any official purpose lawfully authorized by said superintendent. Any person who shall make any false statement under oath before the state superintendent or his chief deputy is guilty of perjury. (*Thus amended by chap. 684, L. 1900.*)

The conviction under an indictment charging the defendant with violating the provisions of this section by assisting in the escape of a registered elector, who, when he attempted to vote on election day, was arrested by a deputy superintendent of elections without a warrant, on a charge of having falsely registered cannot be sustained, in the absence of proof that the person whom the deputy superintendent of elections had arrested was actually guilty of the crime of false registration. (*People v. Hochstim*, 76 App. Div. 25; 78 N. Y. Supp. 638.)

§ 8. Attendance and duties at polling places.—The state superintendent may attend at any election, and each deputy superintendent shall, on election day, attend the election at the polling place to which he is assigned. The state superintendent shall assign an equal number of deputies from each of the parties, entitled to nominate deputy superintendents at every polling place where such deputies are assigned by him. The state superintendent and each deputy shall be admitted at any time within any polling place and within the guard rails thereof. It shall be the duty of the superintendent and of each deputy during the election to preserve order and arrest any person violating or attempting to violate the election law or any provision of the penal code relating to the elective franchise.

§ 9. Duties of lodging house and hotel keepers, chief of police and heads of certain departments.—It shall be the duty of every landlord, proprietor, lessee or keeper of a lodging house, inn or hotel, in the metropolitan elections district, to keep a register in which shall be entered the name and residence, the date of arrival and departure of their guests and the room or rooms occupied by them, and such landlord, proprietor, lessee or keeper shall make a sworn report twenty-nine days before the election next ensuing to the said superintendent of elections, which report shall contain the names of the lodgers therein who claim a voting residence at or in such lodging house, inn or hotel, together with the length of time they have been regularly lodging therein, state the beginning thereof, the color, age, height, weight, color of hair, marks on face or hands, the complexion of and any distinguishing marks or features of face or body whereby such persons may be identified, the place of their nativity, the occupation of

and place of business of such persons and designating the room occupied by such person. To the end that the sworn report herein required shall truly set forth the facts therein stated, it shall be the duty of the said landlord, proprietor, lessee or keeper to question each male person lodging in such lodging house, inn, or hotel as to his intention of claiming such place as a voting residence, and such person shall thereupon declare his intention thereof, and if he shall claim such place as his voting residence he shall give to such landlord, proprietor, lessee or keeper the facts regarding himself as are required to be incorporated in the sworn report herein provided for. Any such landlord, proprietor, lessee or keeper or any lodger who shall violate this provision shall be deemed guilty of a misdemeanor. If any person, other than the keeper or members of his family, shall claim a voting residence in a building or part of the building used as an hotel, within three months of a general election, in which building or part of the building the business of trafficking in liquors is conducted under a liquor tax certificate issued under subdivision one of section eleven of the liquor tax law, the holder of such certificate shall furnish to the state superintendent of elections, whenever the superintendent shall require him so to do, an affidavit properly acknowledged and signed before a notary public, in which the holder of such certificate shall state whether he and such building have conformed to and at the time of making the affidavit do conform to all the requirements of the laws, ordinances, rules and regulations relating to hotels and hotel keepers, including all laws, ordinances, rules and regulations of the state or locality pertaining to the building, fire and health departments in relation to hotels and hotel keepers and that such building is or was within three months of the said election used as an hotel. If for any reason the said building or part of the building used as an hotel shall be devoted to other than hotel purposes within three months of said election the holder of such liquor tax certificate shall state in such affidavit for what purpose such building or part thereof formerly used for hotel purposes is then used, and, if the same has been sublet to any person, he shall so state, giving the terms of said lease, and the name of the lessee. Any holder of a liquor tax certificate required to make such affidavit by the said superintendent who shall refuse, fail or neglect to make and file the same forth

with with the superintendent is guilty of a misdemeanor. Any holder of a liquor tax certificate who shall incorporate any false statement in any sworn report or affidavit to the superintendent of elections is guilty of perjury and in addition to suffering the penalty prescribed by law for such crime shall forfeit his liquor tax certificate and shall be deprived of all rights and privileges thereunder and of any right to a rebate of any portion of the tax paid thereon, and shall be debarred from trafficking in liquors for a period of five years from the date of his conviction. Any report or affidavit herein required shall be acknowledged and sworn to before a notary public or commissioner of deeds, and shall be filed personally by such landlord, proprietor, lessee or keeper or by registered mail with the said superintendent of elections at his office. Whenever the state superintendent of elections shall require it shall be the duty of the chief of police and the respective heads of the departments of buildings, fire and health to forthwith make a report in writing to the said superintendent of elections of every building or part of a building in such city in which the business of trafficking in liquors is conducted under a liquor tax certificate issued under subdivision one of section eleven of the liquor tax law, showing the location thereof by street and number, election district and assembly district or ward, the character of such business, as declared by the holder of the certificate, specifying whether it be an hotel, restaurant, saloon, store, shop, booth or other place and the name of the holder of such certificate and if the place be an hotel the report shall state whether or not the building and holder of the certificate conforms to all the laws, ordinances, rules and regulations of the state or locality including the laws, ordinances, rules and regulations of the building, fire and health departments in relation to hotels and hotel keepers. (*Thus amended by chap. 684, L. 1900.*)

§ 10. **Lists of enrollments on registration days.**—In any city within the metropolitan district, the board of inspectors of each election district shall immediately at the close of each day of registration make and complete one list of all persons enrolled in their respective districts, in the form prescribed for the register of electors but, arranged in the numerical order of the streets and numbers thereof, which list shall be signed and certified by the board of inspectors. Such list shall be delivered forthwith by the chair-

man of the board of inspectors to the police who shall forthwith deliver the same to the state superintendent of elections at his office. The blanks for such lists shall be furnished to the inspectors by the secretary of state in the same manner and at the same time as the blank register of elections. (*Thus amended by chap. 499, L. 1899.*)

§ 11. **Removal of deputies.**—The state superintendent of elections may remove at any time for cause a deputy appointed by him and shall employ in his place a member of the same political party, which appointment shall be made in the same manner as the original appointment. This section shall not apply to the chief deputy superintendent, nor to the deputies authorized in section five of this act.

§ 12. **Salaries and expenses.**—The annual salary of the state superintendent of elections shall be five thousand dollars; of his chief deputy, four thousand five hundred dollars; of the clerk, eighteen hundred dollars; of the stenographer, fifteen hundred dollars; payable monthly. Each deputy, except the chief, shall receive five dollars for each day's service, not exceeding forty days for any one election, to be paid on the certificate of the superintendent or chief deputy, providing, however, that the superintendent may continue the services of such deputies not longer than December thirty-first of such year if he shall in his judgment deem it necessary so to do in order to prosecute any criminal actions in which said deputies shall be the complaining witnesses or if their services be, in his judgment, necessary to the proper completion of the work of the department. All salaries and other compensation provided by this section shall be paid by the state treasurer on the warrant of the comptroller. The state superintendent may provide an office for his use and furnish it with needed furniture, stationery and supplies, and expend for such purpose and for his disbursements and expenses in discharging his duty and in carrying out the provisions of this act, not exceeding fifteen thousand dollars each year, to be paid by the state treasurer on the audit and warrant of the comptroller. (*Thus amended by chap. 499, L. 1899.*)

§ 13. **Report to governor; rules.**—The state superintendent of elections shall annually in the month of December, file with the governor a report showing the names and residences of the per

sons appointed by him as deputies during the year, the number of days each has served, the compensation certified for each, the number of arrests made for violation of the election law or the penal code, the names of the persons arrested, the nature of the offense charged, the disposition thereof, and any other facts in relation to the administration of his office which the state superintendent may deem proper or which may be required by the governor. He shall make such rules for the control and conduct of his deputies as he may deem advisable not in conflict with law.

§ 14. **Appropriation.**—The sum of one hundred and sixty thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purposes of this act, out of any moneys in the treasury not otherwise appropriated.

§ 15. **Laws repealed.**—All acts and parts of acts, general, local or special, inconsistent with the provisions of this act, are hereby repealed.

§ 16. This act shall take effect immediately.

The Penal Code.

TITLE V.

RELATING TO CRIMES AGAINST THE ELECTIVE FRANCHISE.

§ 41. Misdemeanors at, or in connection with, political caucuses, primary elections, enrollment in political parties, committees and conventions.—Any person who:

1. At a political caucus, or at a primary election of a party willfully votes, or attempts to vote, without being entitled to do so, or votes, or attempts to vote, on any other name than his own, more than once on his own name; or

2. Votes, or offers to vote, at a political caucus or at a primary election of a party, having voted at the political caucus or primary election of any other political party on the same day, or being at the time enrolled in a party other than the party at whose primary he votes or offers to vote; or

3. At a political caucus, or at a primary election, for the purpose of affecting the result thereof, votes or attempts to vote two or more ballots, or adds, or attempts to add, any ballot to those lawfully cast, by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted, or who adds to or mixes with, or attempts to add to or mix with, the ballots lawfully cast, another ballot or other ballots before the votes have been counted or canvassed, or while the votes are being counted or canvassed; or at any time abstracts any ballots lawfully cast, with intent to change the result of such election or to change the count thereat in favor of or against any person voted for at such election, or to prevent the ballots being recounted or used as evidence, or carries away, destroys, loses, conceals, detains, secretes, or mutilates, or attempts to carry away, destroy, conceal, detain, secrete or mutilate, any tally lists, ballots, ballot boxes, enrollment books, certificates of return, or any official documents provided for by law.

primary election law or otherwise by law, for the purpose of affecting or invalidating the result of such election, or of destroying evidence; or in any manner interferes with the officers holding any primary election or conducting the canvass of the votes cast thereat, or with voters lawfully exercising, or seeking to exercise, their right of voting at such primary election; or

4. For the purpose of securing enrollment as a member of a political party, or for the purpose of being allowed to vote at a primary election as a member of a political party, makes and deposits or files, or makes or deposits or files with a board of primary inspectors, or with any public officer or board, a false declaration of party affiliation or willfully makes a false declaration of residence, either by an enrollment blank or otherwise, or falsely answers any pertinent question asked him by the board of primary inspectors, or the board of election inspectors, or by a member thereof; or knowingly, on any day of registration or in the interval between any such day and the next ensuing day of general election, reveals or discloses the names or number of the enrolled electors of any party, or makes, publishes, or circulates a list of such names, or of any thereof, or does or permits any act by which the name of the party with which an elector has enrolled, or the number of electors enrolled with a party, may be disclosed; or

5. Fraudulently or wrongfully does any act tending to affect the result of any election at a political caucus or of any primary election or convention; or

6. Induces or attempts to induce any officer, teller, canvasser, poll clerk, primary election inspector, election inspector, custodian of primary records, or clerk or employee of or in the office of a custodian of primary records, at a political caucus, or primary election, or convention, or on any day of registration, or while discharging any duty or performing any act required or made necessary by the primary election law, to do any act in violation of his duty, or in violation of the election law or the primary election law; or

7. Directly or indirectly, by himself or through any other person, pays, or offers to pay, money or other valuable thing, or promises a place or position, or offers any other consideration, or makes any other promise, to any person, to induce any voter or voters to vote, or refrain from voting, at a political caucus, primary election, or convention for or against any particular person or persons; or

does or offers to do, anything to hinder or delay any elector from taking part in, or voting at, a political caucus, or at a primary election; or

8. By menace or other unlawful or corrupt means, directly or indirectly, influences or attempts to influence, the vote of any person entitled to vote at a political caucus, primary election, or convention, or obstructs such person in voting or prevents him from voting thereat; or

9. Directly or indirectly, by himself or through any other person, receives money or other valuable thing, or a promise of a place or position, before, at, or after any political caucus, primary election, or convention, for voting or refraining from voting for or against any person, or for voting or refraining from voting at a political caucus, primary election, or convention; or

10. Being an officer, teller, canvasser, primary inspector, at a political caucus, or at a primary election, knowingly permits any fraudulent vote to be cast, or knowingly receives and deposits in the ballot box any ballots offered by any person not qualified to vote; or permits the removal of ballots from the polling place before the close of the polls, or refuses to receive ballots intended for the electors of the district, or refuses to deliver to any elector ballots intended for the electors of the district which have been delivered to the board of inspectors, or permits electioneering within the polling place or within one hundred feet therefrom, or fails to keep order within the polling place, or permits any person other than the inspectors to accompany an elector into a voting booth, or enters the voting booth with any elector, except one entitled to receive assistance in the preparation of his ballot, or permits any person other than a voter, who has not voted, or watcher to come within the guard rail or removes or permits another to remove any mark placed upon a ballot for its identification, or
(*Thus amended by chap. 371, L. 1901.*)

11. Being an officer, custodian of primary records, clerk or employe of or in the office of a custodian of primary records, election inspector, primary inspector, or poll clerk, knowingly puts opposite the name of an elector in an enrollment book any enrollment number other than the number opposite such name on the registration books of such district, or knowingly delivers to or receives from any elector on any day of registration an enrollment blank or envelope on which is any other enrollment number than that so opposite his name on such books of registration, or knowingly transcribes from an enrollment blank to the enrollment books any refusal to enroll or enrollment not indicated on the enrollment blank of the elector of such district whose enrollment number appears on the same, or refuses or willfully neglects to transcribe from any enrollment blank to the proper enrollment books

any refusal to enroll or enrollment indicated on the enrollment blank of such an elector, enrolls or attempts to enroll as a member of a political party, upon any of the enrollment books, any person not qualified to enroll as such, or fraudulently enters thereupon the name of any person who has not enrolled as a member of any political party, or refuses or willfully neglects to enroll upon any of the enrollment books the name of any qualified person who has demanded to be enrolled as a member of a political party, or at any time strikes from any of the enrollment books the name of any person duly enrolled, or at any time adds to any of the enrollment books the name of any person not qualified to be enrolled as a member of a political party, or the name of any person who in fact has not enrolled as such; or makes marks upon, mutilates, carries away, conceals, alters, or destroys any enrollment blank or enrollment envelope used or deposited by an elector on a day of registration for the purpose of enrolling or refusing to enroll himself as a member of a political party; or mutilates, carries away, conceals, alters, or destroys any statement or declaration made by a qualified voter for the purpose of enrolling as a member of a party; or, prior to the close of the last meeting for registration in any year, mutilates, carries away, conceals, alters, or destroys any enrollment blanks or enrollment envelopes not then delivered to electors; or

12. Being an officer, teller, canvasser, election inspector, primary inspector, custodian of primary records, clerk or employee of or in the office of a custodian of primary records, or any officer of a political committee or a convention, willfully omits, refuses or neglects to do any act required by the primary election law or otherwise by law, or violates any of the provisions of the primary election law, or makes or attempts to make any false canvass of the ballots cast at a political caucus, primary election, or convention, or a false statement of the result of a canvass of the ballots cast thereat; or

13. Being a custodian of primary records, or an officer of a political committee, or of a convention, who is charged with, or assumes, the duty of making up the preliminary roll of any convention, willfully includes in such roll the name of any person not certified to be elected thereto in accordance with the provisions of law, or who willfully omits from such roll the name of any person who is so certified to be a delegate to such convention;

Is guilty of a misdemeanor. (*Thus amended by chap. 530, Laws 1899.*)

§ 41a. Any person who:

1. Causes or attempts to cause his name to be placed upon any list or register of voters in more than one election district for the same election, or more than once in the same election district, or

2. Who causes or attempts to cause his name to be placed upon a list or register of voters knowing that he, will not be a qualified voter in the district at the election for which such list or register is made, or; who causes his name to be placed upon the rolls of a party organization of one party while his name is by his consent or procurement upon the rolls of a party organization of another party, or

3. Who registers or attempts to register as an elector under any other name than his own, or

4. Who knowingly gives a false residence within the election district when registering as an elector, or

5. Who knowingly permits, aids, assists, abets, procures, commands or advises another to commit any such act is guilty of a felony, punishable by imprisonment in a state prison for not less than one year nor more than five years. (*Thus amended by chap. 371, L. 1901.*)

§ 41aa. Any person who, being a police commissioner or an officer or member of any police force in this state, either

1. Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society or to control, affect, influence, reward or punish the political adherence, affiliation, action, expression or opinion of any citizen; or

2. Appoints, promotes, transfers, retires or punishes an officer or member of a police force, or asks for or aids in the promotion, transfer, retirement or punishment of an officer or member of a police force, because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of committee or representative official or otherwise of any political party, organization, association or society; or

3. Contributes any money, directly or indirectly, to, or solicits, collects or receives any money for, any political fund, or joins or becomes a member of any political club, association, society or committee;

Is guilty of a misdemeanor. (*Added by chap. 529, Laws 1899.*)

§ 41b. **Mutilation, destruction or loss of registry list.**—Any person who willfully loses, destroys or mutilates the list or register of votes in any election district, or a certified copy thereof, after the making of the same and before the closing of the polls of the election for which the same is made, is guilty of a misdemeanor.

§ 41bb. **Soliciting for support of newspaper.**—Any person who solicits from a candidate for an elective office money or other property as a consideration for a newspaper or other publication supporting any candidate for an elective office, is guilty of a misdemeanor. (*Added by chap. 70, L. 1900. To take effect Sept. 1, 1900.*)

§ 41c. Misconduct of registry officers.—Any member or clerk of a registry board who willfully violates any provision of the election law relative to registration of electors or willfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any fraud in the execution of the duties of his office, shall be punishable by imprisonment for not less than two and not more than ten years.

§ 41d. Failure of house-dweller to answer inquiries.—Any person dwelling in a building in a city who willfully refuses to truly answer any questions or who shall give false answers to any questions asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, or who knowingly harbors or conceals any person who has falsely registered as a voter or who shall rent any room or rooms, bed or beds to any person to be used by such person for himself or any other person for the purpose of unlawfully registering or voting therefrom is guilty of a misdemeanor. (*Thus amended by chap. 371, L. 1901.*)

§ 41e. Removal, mutilation or destruction of election booths, supplies, poll-lists or cards of instruction.—Any person who:

1. During an election or town meeting, willfully defaces or injures a voting booth or compartment, or willfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments, in pursuance of law; or,
2. Before the closing of the polls, willfully defaces or destroys any list of candidates to be voted for at such election or town meeting, posted in accordance with the election law; or,
3. During an election or town meeting, willfully removes or defaces the cards for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor.

§ 41f. Refusal to permit employees to attend election.—A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

§ 41g. Misconduct in relation to certificates of nomination and official ballots.—A person who,

1. Falsely makes or makes oath to, or fraudulently defaces or destroys, a certificate of nomination or any part thereof; or
2. Files or receives for filing a certificate of nomination knowing that any part thereof was falsely made; or

3. Suppresses a certificate of nomination which has been duly filed, or any part thereof; or

4. Forges or falsely makes the official indorsement of any ballot; or

5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by law,

Is punishable by imprisonment for not less than one nor more than five years.

§ 41h. **Failure to deliver official ballots.**—Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector, as authorized by the election law, and neglects or refuses to do so, is guilty of a misdemeanor.

§ 41i. **Misconduct of election officers and watchers.**—Any election officer or watcher who:

1. Reveals to another person the name of any candidate for whom a voter has voted; or,

2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted; or,

3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified; or

4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year.

§ 41j. **Violation of election law by public officer.**—A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both.

§ 41k. **Misdemeanors in relation to elections.**—Any person who:

1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read, and write the English language, or without being otherwise qualified to hold such office; or,

2. Being an inspector of election, knowingly and willfully permits or suffers any person to vote who is not entitled to vote thereat; or,

3. Willfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to registration or polling place, or while he is attempting to register or vote; or,

4. Electioneers on election day within a polling place, or in public street or in a building or room, unless such building or room has been maintained for such purpose for at least six months previous to said election day, or in any public manner within one hundred feet of a polling place; or displays any political poster or

placard, except those lawfully provided, in or upon any building used for registration or election purposes during any day for registration or election; or,

5. Removes any official ballot from a polling place before the closing of the polls; or

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,

7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or,

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with a ballot or paster ballot, with the intent that it may afterward be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or,

14. Not being a ballot clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Willfully defaces, injures, mutilates, destroys or secretes any voting machine which belongs to any municipality for use at elections, and any person who commits or attempts to commit a fraud in the use of any such voting machine during an election; or,

18. Willfully disobeys any lawful command of the board of in-

spectors, or any member thereof, is guilty of a misdemeanor. This section shall apply to general and special elections, municipal elections and town meetings, but nothing therein shall prevent any person from receiving or delivering an unofficial sample ballot, or from receiving, delivering and voting an unofficial ballot as authorized by the election law. (*Thus amended by chap. 265, Laws 1895.*)

§ 411. **Illegal voting.**—Any person who:

1. Knowingly votes or offers or attempts to vote at any election, primary election or town meeting, when not qualified; or

2. Procures, aids, assists, counsels or advises any person to go or come into any town, ward or election district, for the purpose of voting at any election, primary election or town meeting, knowing that such person is not qualified; or

3. Votes or offers or attempts to vote at an election, primary election or town meeting more than once; or votes or offers or attempts to vote at an election, primary election or town meeting under any other name than his own; or votes or offers or attempts to vote at an election, primary election or town meeting in an election district or from a place where he does not reside; or

4. Procures, aids, assists, commands or advises another to vote or offer or attempts to vote at an election, primary election or town meeting, knowing that such person is not qualified to vote thereat; or

5. Being an inhabitant of another state or county, votes or offers or attempts to vote at an election, primary election or town meeting in this state or permits, aids, assists, abets, procures, commands or advises another to commit or attempt any act named in this section is guilty of felony, punishable by imprisonment in a state prison not less than one nor more than five years.

6. An offer or attempt under this section shall be deemed to be the doing of any act made necessary by the election law preliminary to the delivery of a ballot to an elector or the deposit of the ballot in the ballot box. (*Thus amended by chap. 371, L. 1901.*)

§ 41m. **False returns.**—An inspector or poll clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the

inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony. (*Section renumbered by chap. 371, L. 1901.*)

§ 41 n. **Furnishing money or entertainment to induce attendance at polls.**—Any person who, with the intent to promote the election of a person to an elective office:

1. Furnishes entertainment to the electors before or during an election or town meeting at which such person is a candidate; or,
2. Pays for, procures or engages to pay for such entertainment; or,
3. Furnishes money or other property, or engages to compensate any person for procuring the attendance of voters at the polls of such election or town meeting; or,
4. Contributes money for any other purpose than the printing and circulating of hand bills, books and other papers previous to an election or town meeting, or conveying electors to the polls, or music, or rent of halls, is guilty of a misdemeanor. (*Section renumbered by chap. 371, L. 1901.*)

§ 41 o. **Giving consideration for franchise.**—Any person who directly or indirectly, by himself or through any other person:

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election, or to induce such voter or other person to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter or other person having voted or refrained from voting or having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters, or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his or any other name upon the registry of voters; or

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election, for or against any particular person or persons, or for or against any proposition submitted to voters, or to induce any voter or other person to place or cause to be placed or refrain from placing or causing to be placed his or any other name upon a registry of voters; or

3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or

5. Procures or engages or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement the election of any person, or the vote of any voter, at such election; or

6. Advances or pays or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of a felony, punishable by imprisonment for not less than one year, or more than five years, and in addition forfeit any office to which he may have been elected at the election with reference to which such offense was committed, and becomes incapable of holding any public office under the constitution and laws of the state for a period of five years after such conviction. (Thus amended by chap. 371, L. 1901.)

§ 41p. **Receiving consideration for franchise.**—Any person who, directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or,
2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election, or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person or persons at such election, or for or against any proposition submitted to voters at such election, is guilty of a felony, punishable by imprisonment for not less than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction; and the county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of such clerks. (*Thus amended by chap. 371, L. 1901.*)

§ 41q. **Testimony upon prosecution.**—A person offending against any section of this title is a competent witness against another person so offending and may be compelled to attend and testify on any trial, hearing or proceeding, or investigation in the same

manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. Any such person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly in bar of such an indictment or prosecution. (*Thus amended by chap. 371, L. 1901.*)

§ 41r. **Bribery or intimidation of elector in military service of United States.**—Any person who, directly or indirectly, by bribery, menace or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state; and upon conviction thereof shall thereafter be ineligible to any office therein. (*Section renumbered by chap. 371, L. 1901.*)

§ 41s. **Duress and intimidation of voters.**—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or persons or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed, his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or com-

els, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any hand bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter. (*Section numbered by chap. 371, L. 1901.*)

§ 41t. **Conspiracy to promote or prevent election.**—Any two or more persons who conspire to promote or prevent the election of any person or persons to a public office by the use of any means which are prohibited by law, shall be punishable by imprisonment or not less than six months nor more than one year; provided, any act besides such agreement be done to effect the object thereof by one or more of the parties to such conspiracy. (*Section numbered by chap. 371, L. 1901.*)

§ 41u. **Political assessments.**—Any person who:

1. Being an officer or employee of the state, or of a political subdivision thereof, directly or indirectly uses his authority or official influence to compel or induce any other officer or employee of the state or a political subdivision thereof, to pay or promise to pay any political assessments; or,

2. Being an officer or employee of the state or of a political subdivision thereof, directly or indirectly, gives, pays or hands over to any other such officer or employee any money or other valuable thing on account of or to be applied to the promotion of his election, appointment or retention in office, or makes any promise, or gives any subscription to such officer or employee to pay or contribute any money or other valuable thing for any such purpose or object; or,

3. Being such an officer or employee and having charge or control of any building, office or room occupied for any purpose of the state or of a political subdivision thereof, consents that any person enter the same for the purpose of making, collecting, receiving or giving notice of any political assessment; or,

4. Enters or remains in any such office, building or room, or sends or directs any letter or other writing thereto, for the purpose of giving notice of demanding or collecting or being therein, gives notice of, demands collects or receives, any political assessment;

5. Prepares or makes out, or takes any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any such officer or employee; or,

6. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employee.

Is guilty of a misdemeanor. (*Section renumbered by chap. 371, L. 1901.*)

§ 41v. Corrupt use of position or authority.—Any person who,

1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or,

2. Being a public officer or employee of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employee, or promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employee, or on account of the vote or political action of such officer or employee; or

3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contri-

bution of any valuable consideration, or upon an understanding or promise thereof, or

4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both. (*Section renumbered by chap. 371, L. 1901.*)

§ 41w. **Failure to file candidate's statement of expenses.**—Every candidate who is voted for at any public election, held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of the secretary of state. The candidates for town, village and city offices, excepting in the city of New York shall file their statements in the office of the town, village or city clerk, respectively, and in cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office. (*Section renumbered by chap. 371, L. 1901.*)

§ 41x. **Procuring fraudulent certificates in order to vote.**—Any person who knowingly and willfully procures from any court,

judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise is guilty of a felony.

§ 41Y. **Presenting fraudulent certificates to registry boards to procure registration.**—A person who knowingly and willfully presents to any board of officers, for the purpose of having himself or any other person placed upon any list or registry of voters, or to any board of officers for the purpose of enabling himself or any other person to vote at any election, any certificate of naturalization which has been allowed or issued by or procured from any judicial officer, clerk of a court, or other ministerial officer of a court, by any false statement, oath or representation, or in violation of the laws of the United States or of this state, with intent to enable any person to vote at any election, when such person is not entitled by the laws of the United States to become a citizen, or of this state, to exercise the elective franchise, is guilty of a felony.

§ 41Z. **Soliciting from candidates.**—Any person who solicits from a candidate for an elective office money or other property, or who seeks to induce such candidate who has been placed in nomination to purchase any ticket, card or other evidence of admission to any ball, picnic, fair or entertainment of any kind, is guilty of a misdemeanor; but this section shall not apply to a request for a contribution of money by an authorized representative of the political party, organization or association to which such candidate belongs.

§ 41ZZ. Any person convicted of a misdemeanor under this title shall for a first offense be punished by imprisonment for not less than six months nor more than one year and by a fine of not less than one hundred dollars nor more than five hundred dollars. Any person convicted of a misdemeanor under this title for a second or subsequent offense shall be deemed guilty of a felony. (*Added by chap. 371, L. 1901.*)

CONSTITUTION

OF THE

State of New York.

PROVISIONS THEREIN, CONCERNING ELECTIONS AND ELECTIVE OFFICES.

ARTICLE II.

SECTION 1. Qualifications of voters.—Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

§ 2. Persons excluded from the right of suffrage, etc.—No person who shall receive, accept or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving

or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

§ 3. **Certain occupations and conditions not to affect residence of voters.**—For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison.

§ 4. **Registration and election laws to be passed.**—Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

§ 5. **Manner of voting.**—All elections by the citizens, except for such town officers as may by law be directed to be otherwise

1, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

Registration and election boards to be bi-partisan, except in town and village elections.—All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving and recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election preceding that for which such boards or officers are to serve, have the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

ARTICLE III.

SECTION 1. Legislative powers.—The legislative power of this State shall be vested in the senate and assembly.

Number and terms of senators and assemblymen.—The senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The assembly shall consist of one hundred and fifty members who shall be chosen for one year.

Senate districts.—The state shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, in the following order.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings, comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

District number four (4) shall consist of that part of the county

of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the City of Brooklyn which was formerly the town of Gravesend.

District number six (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street and Jackson street, to the East river and thence around the southern end of Manhattan island, to the place of beginning, and also Governor's, Bedloe's and Ellis islands.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of districts numbers ten and eleven and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson

et, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

District number thirteen (13) shall consist of that part of the city of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Minick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Tenth avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river, to the place of beginning.

District number fourteen (14) shall consist of that part of the city of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

District number fifteen (15) shall consist of that part of the city of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fourth street, Eighth avenue, and the transverse road across Central Park at Ninety-seventh street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

District number sixteen (16) shall consist of that part of the city of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and East Nineteenth street, and running thence along West Ninth street, Eighth avenue, West Twentieth street, the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

District number seventeen (17) shall consist of that part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

District number eighteen (18) shall consist of that part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

District number nineteen (19) shall consist of that part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island, thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

District number twenty (20) shall consist of that part of the county of New York lying north of districts numbers eighteen and fifteen, and within and bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along

the Harlem and East rivers to the place of beginning; and also Randall's island and Ward's island.

All of the above districts in the county of New York bounded upon or along the boundary waters of the county, shall be deemed to extend to the county line.

District number twenty-one (21) shall consist of that part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty-ninth street, Fifth avenue and the Harlem river, to the place of beginning; and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Greene.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schenectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth,

ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo as at present constituted, and all the remainder of the said county of Erie not hereinbefore described.

District number fifty (50) shall consist of the counties of Chautauqua and Cattaraugus.

§ 4. Enumeration to be taken every ten years—senate districts, how altered.—An enumeration of the inhabitants of the state shall be taken under the direction of the secretary of state, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times, consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein, adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty

and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

§ 5. **Apportionment of assemblymen; creation of assembly districts.**—The members of the assembly shall be chosen by single districts, and shall be apportioned by the legislature at the first regular session after the return of every enumeration among the several counties of the state, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the state, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

Until after the next enumeration, members of the assembly shall be apportioned to the several counties as follows: Albany county, four members; Allegany county, one member; Broome county, two members; Cattaraugus county, two members; Cayuga county, two members; Chautauqua county, two members; Che-

Albany county, one member; Chenango county, one member; Clinton county, one member; Columbia county, one member; Cortland county, one member; Delaware county, one member; Dutchess county, two members; Erie county, eight members; Essex county, one member; Franklin county, one member; Fulton and Hamilton counties, one member; Genesee county, one member; Greene county, one member; Herkimer county, one member; Jefferson county, two members; Kings county, twenty-one members; Lewis county, one member; Livingston county, one member; Madison county, one member; Monroe county, four members; Montgomery county, one member; New York county, thirty-five members; Niagara county, two members; Oneida county, three members; Onondaga county, four members; Ontario county, one member; Orange county, two members; Orleans county, one member; Oswego county, two members; Otsego county, one member; Putnam county, one member; Queens county, three members; Rensselaer county, three members; Richmond county, one member; Rockland county, one member; St. Lawrence county, two members; Saratoga county, one member; Schenectady county, one member; Schoharie county, one member; Schuyler county, one member; Seneca county, one member; Steuben county, two members; Suffolk county, two members; Sullivan county, one member; Tioga county, one member; Tompkins county, one member; Ulster county, two members; Warren county, one member; Washington county, one member; Wayne county, one member; Westchester county, three members; Wyoming county, one member, and Yates county, one member.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and ninety-five, and at such times as the legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment equal to the number of members of assembly to which such county shall

be entitled, and shall cause to be filed in the office of the secretary of state and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the state enumeration of one thousand eight hundred and ninety-two, so far as may be, instead of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the legislature.

An apportionment by the legislature, or other body, shall be subject to review by the supreme court, at the suit of any citizen, under such reasonable regulations as the legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

§ 6. Compensation of members.—Each member of the legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel in going to or returning from their place of meeting, once in each session, on the most usual route. Senators, when the senate alone is convened in extraordinary session, or when serving as members of the court for the trial of impeachments, and such members of the assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

§ 7. Civil appointments of members void.—No member of the legislature shall receive any civil appointment within this state, or the senate of the United States, from the governor, the governor and senate, or from the legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointments shall be void.

§ 8. Persons disqualified for being members.—No person shall be eligible to the legislature, who at the time of his election, is or within one hundred days previous thereto has been, a member of congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

§ 9. Time of election fixed.—The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the legislature.

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§ 18. Private and local bills not to be passed in certain cases.—The legislature shall not pass a private or local bill in any of the following cases:

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Providing for election of members of boards of supervisors.

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The opening and conducting of elections or designating places of voting.

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§ 27. **Local legislative powers.**—The legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the state such further powers of local legislation and administration as the legislature may from time to time deem expedient.

§ 28. **Extra compensation prohibited.**—The legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

ARTICLE IV

Sec. 1. **Executive power, how vested.**—The executive power shall be vested in a governor, who shall hold his office for two years; a lieutenant-governor shall be chosen at the same time, and for the same term. The governor and lieutenant-governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

§ 2. **Qualifications of governor and lieutenant-governor.**—No person shall be eligible to the office of governor or lieutenant-governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this state.

§ 3. **Election of governor and lieutenant-governor.**—The governor and lieutenant-governor shall be elected at the times and places of choosing members of the assembly. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor. ,

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§ 7. Qualifications of lieutenant-governor.—The lieutenant-governor shall possess the same qualifications of eligibility for office as the governor. He shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor, the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the state, the president of the senate shall act as governor until the vacancy be filled or the disability shall cease; and if the president of the senate for any of the above causes shall become incapable of performing the duties pertaining to the office of governor, the speaker of the assembly shall act as governor until the vacancy be filled or the disability shall cease.

ARTICLE V

SEC. 1. State officers.—The secretary of state, comptroller, treasurer, attorney-general and state engineer and surveyor shall be chosen at a general election at the times and places of electing the governor and lieutenant-governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the speaker of the assembly, shall, at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use any fees or perquisites of office or other compensation. No person shall be elected to the office of state engineer and surveyor who is not a practical civil engineer.

§ 2. First election of state officers.—The first election of the secretary of state, comptroller, treasurer, attorney-general and state engineer and surveyor, pursuant to this article shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years.

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§ 7. Treasurer may be suspended by the governor.—The treasurer may be suspended from office by the governor, during the re-

cess of the legislature, and until thirty days after the commencement of the next session of the legislature, whenever it shall appear to him that such treasurer has, in any particular, violated his duty. The governor shall appoint a competent person to discharge the duties of the office during such suspension of the treasurer.

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ARTICLE VI

SEC. 1. Supreme court, how constituted; judicial districts.—The supreme court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or may be prescribed by law not inconsistent with this article. The existing judicial districts of the state are continued until changed as hereinafter provided. The supreme court shall consist of the justices now in office, and of the judges transferred thereto by the fifth section of this article, all of whom shall continue to be justices of the supreme court during their respective terms, and of twelve additional justices who shall reside in and be chosen by the electors of, the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said justices shall be chosen by the electors of their respective judicial districts. The legislature may alter the judicial districts once after every enumeration under the constitution, of the inhabitants of the state, and thereupon reapportion the justices to be thereafter elected in the districts so altered.

§ 2. Judicial departments.—The legislature shall divide the state into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof.

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§ 4. Terms of office vacancies, how filled.—The official terms of the justices of the supreme court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of justice of the supreme court the same shall be filled for

full term, at the next general election, happening not less than three months after such vacancy occurs; and, until the vacancy shall be so filled the governor by and with the advice and consent of the senate, if the senate shall be in session, or if not in session the governor may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

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§ 7. Court of appeals.—The court of appeals is continued. It shall consist of the chief judge and associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the state. The official terms of the chief judge and associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants. Whenever and as often as a majority of the judges of the court of appeals shall certify to the governor that said court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the governor shall designate not more than four justices of the supreme court to serve as associate judges of court of appeals. The justices so designated shall be relieved from their duties as justices of the supreme court and shall serve as associate judges of the court of appeals until the causes undisposed of in said court are reduced to two hundred, when they shall return to the supreme court. The governor may designate justices of the supreme court to fill vacancies. No justice shall serve as associate judge of the court of appeals except while holding the office of justice of the supreme court, and no more than seven judges shall sit in any case.

§ 8. Vacancies in court of appeals; how filled.—When a vacancy shall occur otherwise than by expiration of term, in the office of chief or associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice, and consent of the senate, if the senate shall be in session, or if

not in session the governor may fill such vacancy by appointment. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

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§ 10. **Judges of court of appeals, or justices of supreme court to hold no other office.**—The judges of the court of appeals and the justices of the supreme court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the legislature or the people, shall be void.

§ 11. **Removals of judges.**—Judges of the court of appeals and justices of the supreme court, may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

§ 12. **Compensation of judges and justices; age restrictions; assignment by governor.**—The judges and justices hereinbefore mentioned shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, except as provided in section five of this article. No person shall hold the office of judge or justice of any court longer than until and including the last day of December next after he shall be seventy years of age. No judge or justice elected after

the first day of January, one thousand eight hundred and ninety-four, shall be entitled to receive any compensation after the last day of December next after he shall be seventy years of age; but the compensation of every judge of the court of appeals or justice of the supreme court elected prior to the first day of January, one thousand eight hundred and ninety-four, whose term of office has been, or whose present term of office shall be, so abridged, and who shall have served as such judge or justice ten years or more, shall be continued during the remainder of the term for which he was elected; but any such judge or justice may, with his consent, be assigned by the governor, from time to time, to any duty in the supreme court while his compensation is so continued.

§ 13. **Trial of impeachment.**—The assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or the major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor or lieutenant-governor, the lieutenant-governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been referred to the senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this state; but the party impeached shall be liable to indictment and punishment according to law.

§ 14. **County courts.**—The existing county courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings here shall be two county judges and the additional county judge shall be chosen at the next general election held after the adoption of this article. The successors of the several county judges shall be chosen by the electors of the counties for the term of six years.

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§ 15. **Surrogate's courts: vacancies in office of county judge or surrogate.**—The existing surrogates' courts are continued, and the surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and surrogates' courts shall have the jurisdiction and powers which the surrogates and existing surrogates' courts now possess, until otherwise provided by the legislature. The county judge shall be surrogate of his county, except where a separate surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate surrogate, the legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No county judge or surrogate shall hold office longer than until and including the last day of December next after he shall be seventy years of age. Vacancies occurring in the office of county judge or surrogate shall be filled in the same manner as like vacancies occurring in the supreme court. The compensation of any county judge or surrogate shall not be increased or diminished during his term of office. For the relief of surrogates' courts the legislature may confer upon the supreme court in any county having a population exceeding four hundred thousand the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate cases.

§ 16. **Local judicial officers.**—The legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law.

§ 17. **Justices of the peace; district court justices.**—The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration

of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts not of record, and their clerks, may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. Justices of the peace and district court justices may be elected in the different cities of this state in such manner, and with such powers, and for such terms, respectively, as are or shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of such cities, or appointed by some local authorities thereof.

§ 18. **Inferior local courts.**—Inferior local courts of civil and criminal jurisdiction may be established by the legislature, but no inferior local court hereafter created shall be a court of record. The legislature shall not hereafter confer upon any inferior or local court of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon county courts by or under this article. Except as herein otherwise provided, all judicial officers shall be elected or appointed at such times and in such manner as the legislature may direct.

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§ 22. **Local judicial officers—Terms of incumbent.**—Justices of the peace and other local judicial officers provided for in sections seventeen and eighteen in office when this article takes effect, shall hold their offices until the expiration of their respective terms.

ARTICLE VII

§ 4. **Limitation of legislative power in the creation of debts.**—Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by a law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof. No such law

shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: " Shall this bill pass, and ought the same to receive the sanction of the people? "

The legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrepealable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage, or at any general election when any other law, or any bill, or any amendment to the constitution, shall be submitted to be voted for or against.

ARTICLE X

SEC. 1. Sheriffs, clerks of counties, district attorneys, and registers, governor may remove.—Sheriffs, clerks of counties, district attorneys, and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the legislature shall direct. Sheriffs shall hold no other office, and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed

stant. But the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

§ 2. Appointment or election of officers not provided for by this constitution.—All county officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may direct.

§ 3. Duration of office.—When the duration of any office is not provided by this Constitution, it may be declared by law, and if not declared, such office shall be held during the pleasure of the authority making the appointment.

§ 4. Time of election.—The time of electing all officers named in this article shall be prescribed by law.

§ 5. Vacancies in office.—The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

§ 6. Political year.—The political year and legislative term shall begin on the first day of January; and the legislature shall, every year, assemble on the first Wednesday in January.

§ 7. Removals from office.—Provisions shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

§ 8. When office deemed vacant.—The legislature may declare

the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution.

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ARTICLE XII.

§ 3. Election of city officers when to be held; extension and abridgment of terms.—All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred and ninety-five whose successors have not then been elected, which under existing laws would expire with an even numbered year, or in an odd-numbered year and before the end thereof are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts.

ARTICLE XIII.

SEC. 1. Oath of office.—Members of the legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: “I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the state of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability;” and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the

oath or affirmation above prescribed. together with the following addition thereto, as part thereof:

“ And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office and have not made any promise to influence the giving or withholding any such vote,” and no other oath, declaration or test shall be required as a qualification for any office of public trust.

§ 2. Official bribery and corruption.—Any person holding office under the laws of this state, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

§ 3. Offer or promise to bribe.—Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

§ 4. Witness, person bribed or offering a bribe may be.—Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

* * * * *

§ 6. Removal of district attorney for failure to prosecute, etc.—Any district attorney who shall fail faithfully to prosecute a person

charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this state, within such county, or of receiving bribes by any such person in said county, shall be a charge against the state, and their payment by the state shall be provided for by law.

ARTICLE XIV.

SEC. I. Amendments.—Any amendment or amendments to this Constitution may be proposed in the senate and assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, and the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit each proposed amendment or amendments to the people for approval in such manner and at such times as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

§ 2. **Constitutional convention.**—At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the legislature may by law provide, the question: "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the state; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the state, as then organized, shall elect three delegates at the next ensuing general election at which members of the assembly shall be chosen, and the

electors of the state voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the Capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall be annually payable to the members of the assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the state at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval.

§ 3. Constitutional amendments to supersede amendments by legislature.—Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the legislature, coincidently submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the legislature.

State and County Officers.

GENERAL PROVISIONS CONCERNING.

- I Qualifications and disabilities.
- II Oath of office and official bonds.
- III Election and terms of office.
- IV Resignations, vacancies and removals.

I.

QUALIFICATIONS AND DISABILITIES.

Qualifications for holding office.—"No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, be of full age, a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised." (§ 3, *Public Officers Law, chap. 681, Laws 1892.*)

Governor and lieutenant-governor, who eligible as.—"No person shall be eligible to the office of governor or lieutenant-governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this state." (§ 2, art. 4, *State Constitution, as amended in 1874.*)

Judges not to hold other offices.—"The judges of the court of appeals and justices of the supreme court shall not hold any other office or public trust. All votes for any of them for any other than a judicial office, given by the legislature or the people, shall be void." (§ 10, art. 6, *State Constitution.*)

Judges must be attorneys and counselors.—"No one shall be eligible to the office of judge of the court of appeals, justice of the su-

preme court, or, except in the county of Hamilton, to the office of county judge or surrogate, who is not an attorney and counselor of this state." (§ 20, art. 6, *State Constitution*.)

Judges not to practice as attorney or counselor or act as referee. (See art. 6, § 20, *State Constitution*.)

Judges to make and file certificate of age, and when their term of office expires.—"A judge of a court of record must within ten days after he enters on the duties of his office, make and sign a certificate, stating his age, and the time when his official term will expire, either by completion of a full term or by reason of the disability of age prescribed in the constitution. The certificate must be filed in the office of the secretary of state, who must keep a record of the time of the commencement and termination of the official term of each judge of a court of record." (§ 54, *Code of Civil Procedure*.)

Members of legislature, who eligible.—"No person shall be eligible to the legislature who, at the time of his election is, or within one hundred days previous thereto has been, a member of congress, a civil or military officer under the United States, or an officer under any city government; and if any person shall, after his election as a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat." (§ 8, art. 3, *State Constitution, as amended in 1874*.)

Members of legislature, not to receive civil appointment.—"No member of the legislature shall receive any civil appointment within this state, or the senate of the United States, from the governor. The governor and senate, or from the legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void." (§ 7, art. 3, *State Constitution*.)

Representatives in Congress, qualifications of.—"No person shall be a representative who shall not have attained to the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen." (§ 2, art. 1, *U. S. Constitution*.)

United States senator, qualifications.—"No person shall be a senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen." (§ 3, *art. 1, U. S. Constitution.*)

United States senators, representatives in congress, electors of president and vice-president, disqualifications.—"No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid, or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability." (§ 3, *art. 14, U. S. Constitution.*)

State engineer and surveyor, qualifications.—"No person shall be elected to the office of state engineer and surveyor who is not a practical civil engineer." (§ 1, *art. 5, State Constitution.*)

Electors of president and vice-president, qualifications.—"No senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." (§ 1, *sub. 2, art. 2, U. S. Constitution.*)

II.

OATH OF OFFICE AND OFFICIAL BOND.

Official oath.—"Every officer shall take and file the oath of office required by law before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by any officer authorized to take, within the state the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed, or may be administered to any member of a body of officers, by a presiding officer or clerk thereof, who shall have taken an oath of office. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside.

he oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, with the clerk thereof; and of every other officer, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof." (§ 10, *Pub. Officers' Law*, chap. 681 of 1892, as amended by chap. 318 of 1893.)

Form of official oaths.—"Members of the legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability; and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contribute, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding of a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding of any such vote,' and no other oath, declaration or test shall be required as a qualification for any office of public trust." (§ 1, art. 13, *State Constitution*.)

Failure to file oath creates vacancy. (*See* § 20, *Pub. Off Law*, chap. 681, L. 1892.)

Official undertakings.—"Every official undertaking, when required by or in pursuance of law to be hereafter executed or filed by any officer, shall be to the effect that he will faithfully discharge the duties of his office and promptly account for and pay over all moneys or property received by him as such officer, in accordance with law, or in default thereof, that the parties executing such undertaking will pay all damages, costs and expenses resulting from such default, not exceeding a sum, if any, specified in such undertaking. The undertaking of a state officer shall be approved by the comptroller both as to its form and as to the sufficiency of the sure-

ties, and be filed in the comptroller's office. The undertaking of a municipal officer shall, if not otherwise provided by law, be approved as to its form and the sufficiency of the sureties by the chief executive officer or by the governing body of the municipality and be filed with the clerk thereof. The approval by such governing body may be by resolution, a certified copy of which shall be attached to the undertaking. The sum specified in an official undertaking shall be the sum for which such undertaking shall be required by or in pursuance of law to be given. If no sum, or a different sum from that required by or in pursuance of law, be specified in the undertaking, it shall be deemed to be an undertaking for the amount so required. If no sum be required by or in pursuance of law to be so specified, and a sum be specified in the undertaking, the sum so specified shall not limit the liabilities of the sureties therein. Every official undertaking shall be executed and duly acknowledged by at least two sureties, each of whom shall add thereto his affidavit that he is a freeholder or householder within the state, stating his occupation and residence and the street number of his residence and place of business if in a city, and a sum which he is worth over and above his just debts and liabilities and property exempt from execution. The aggregate of the sums so stated in such affidavits must be at least double the amount specified in the undertaking. The failure to execute and* official undertaking in the form or by the number of sureties required by or in pursuance of law, or of a surety thereto to make an affidavit required by or in pursuance of law, or in the form so required, or the omission from such an undertaking of the approval required by or in pursuance of law, shall not affect the liability of the sureties therein." (§ 11, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

Force and effect of official undertaking.—"An officer of whom an official undertaking is required, shall not receive any money or property as such officer, or do any act affecting the disposition of any money or property which such officer is entitled to receive or have the custody of, before he shall have filed such undertaking; and any person having the custody or control of any such money or property shall not deliver the same to any officer of whom an undertaking is required until such undertaking shall have been given. If a public officer required to give an official undertaking,

* So in the original.

enters upon the discharge of any of his official duties before giving such undertaking, the sureties upon his undertaking subsequently given for or during his official term shall be liable for all his acts or defaults done or suffered and for all moneys and property received during such term prior to the execution of such undertaking, and if a new undertaking is given, from the time notice to give such new undertaking is served upon him. Every official undertaking shall be obligatory and in force so long as the officer shall continue to act as such and until his successor shall be appointed and duly qualified, and until the conditions of the undertaking shall have been fully performed. When an official undertaking is renewed pursuant to law, the sureties upon the former undertaking shall not be liable for any official act done or moneys received after the due execution, approval and filing of the new undertaking." (§ 12, *Pub. Officers' Law, chap. 681, Laws 1892.*)

Notice of neglect to file oath or undertaking.—"The officer or body making the appointment or certificate of election of a public officer shall, if the officer be required to give an official undertaking, cause to be filed in an office other than that in which the written appointment or certificate of election is to be filed, forthwith a written notice of such appointment or election to the officer in whose office the undertaking is to be filed. If any officer shall neglect, within the time required by law, to take and file an official oath, or execute and file an official undertaking, the officer, with whom, or in whose office such oath or undertaking is required to be filed, shall forthwith give notice of such neglect, if of an appointive officer, to the authority appointing such officer; if of an elective officer, to the officer, board or body authorized to fill a vacancy in such office, if any, or if none and a vacancy in the office may be filled by a special election, to the officer, board or body authorized to call or give notice of a special election to fill such vacancy; except that the notice of failure of a justice of the peace to file an official oath, shall be given to the town clerk of the town for which the justice was elected." (§ 13, *Pub. Officers' Law, chap. 31, Laws 1892.*)

Undertaking of sheriff.—"Every person elected or appointed to the office of sheriff shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county, a joint and sev-

eral undertaking to the county, approved by such clerk, to the effect that such sheriff will, in all things, perform and execute the office of sheriff of his county during his continuance therein, without fraud or deceit. Such undertaking shall be filed in the office of the county clerk; and the clerk shall, at the time of his approval thereof, examine each surety thereto under oath; and he shall not approve of such undertaking, unless it shall appear on such examination that such sureties are jointly worth at least fifteen thousand dollars over and above all debts whatever; which examination, subscribed by the sureties, shall be indorsed on or attached to the undertaking; but the clerk shall determine the sufficiency of each surety. In the same manner the security shall be renewed within the twenty days after the first Monday of January in each year subsequent to that in which he shall have entered upon the duties of his office." (*See § 180, County Law, as amended by chap. 334, Laws 1898.*)

Undertaking of county clerk.—"Every person elected or appointed to the office of county clerk, shall, before he enters on the duties of his office, and if appointed, within fifteen days after notice thereof, execute an undertaking to the county, with at least two sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk of the board, otherwise with the approval of the county judge, or a justice of the supreme court residing in the county, to the effect that he will faithfully execute and discharge the duties of county clerk, and account for all moneys deposited with him pursuant to law, or the order of any court, or by his predecessor in office, and pay them over as required by law, or directed by such order." (*See § 160, County Law, chap. 686, Laws 1893.*)

Undertaking of county treasurer.—"Every person elected or appointed to the office of county treasurer shall, before he enters upon the duties of his office, and if appointed within fifteen days after notice thereof, give an undertaking to the county with three or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk, otherwise with the approval of the county judge and county clerk, and in such sum as such board or judge and clerk approving the same shall direct, to the effect that such person shall faithfully execute the duties of his office, and shall pay over according to law, and account for all moneys, property and securities, which shall come to his hands as

treasurer and render a just and true account thereof to the board of supervisors, when required; and obey all orders and directions with competent court relating thereto. When, in the opinion of the board of supervisors, the moneys intrusted to such person as treasurer shall be unsafe, or the surety insufficient, such board may require from such treasurer a new or further undertaking, to the same effect as at first, and with like sureties; and if such county treasurer shall fail to renew such undertaking as required within twenty days after he shall be notified by such board of such request, such omission shall work a forfeiture of his office, and the same shall become vacant. Such undertaking, with the approval indorsed hereon shall be filed in the office of the county clerk. The sureties, and county therein named, shall be liable to the state for the payment to the state treasurer according to law, of all moneys belonging to the state, which shall come into his hands as county treasurer; and for the rendering of a just and true account thereof to the state comptroller." (*See § 140, County Law, as amended by chap. 222, Laws 1893.*)

Undertaking of district attorney.—"Except in the county of Kings, every person elected or appointed to the office of district attorney, shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the county clerk of his county, a joint and several undertaking to the county, approved by the county judge, with two or more sufficient sureties, being resident freeholders, to the effect, that he will faithfully account for and pay over according to law, or as the court may direct, all moneys that may come into his hands as such district attorney." (*See § 200, County Law, chap. 686, Laws 1892.*)

Undertaking of superintendent of poor.—"Every person elected or appointed to the office of superintendent of the poor shall, before he enters upon the duties of his office, and if appointed, within fifteen days after notice thereof, execute and deliver to the clerk of the county, to be filed in his office, his undertaking to the county, with two or more sufficient sureties, with the approval of the board of supervisors, if in session, indorsed thereon by the clerk; otherwise by the county judge of his county, or a justice of the supreme court of his judicial district, to the effect that he will faithfully discharge the duties of his office as such superintendent of the poor,

and pay according to law all moneys that shall come into his hands as such superintendent, and render a just and true account thereof to the board of supervisors of his county." (*See § 211, County Law, chap. 686, Laws 1892.*)

III.

ELECTION AND TERMS OF OFFICE.

Governor and lieutenant-governor, election of. "The governor and lieutenant-governor shall be elected at the times and places of choosing members of assembly. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor, or for lieutenant-governor, the two houses of the legislature, at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant-governor." (§ 3, *art. 4, State Constitution.*)

Terms of governor and lieutenant-governor.—"The executive power shall be vested in a governor, who shall hold his office for two years; a lieutenant-governor shall be chosen at the same time, and for the same term. The governor and lieutenant-governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year." (§ 1, *art. 4, State Constitution.*)

Members of legislature, time of electing. "The elections of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November unless otherwise directed by the legislature." (§ 9, *art. 3, State Constitution.*)

Number and terms of senators and assemblymen.—"The senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The assembly shall consist of one hundred and fifty members who shall be chosen for one year." (*Part of § 2, art. 3, of Revised Constitution.*)

idian of each succeeding day during the session of the legislature, and shall take at least one vote, until a senator is elected." (See §§ 14, 15, 1st U. S. Rev. Stat.)

United states senator, term of office.—"The senate of the United States shall be composed of two senators for each state, chosen by the legislature thereof, for six years." (See § 3, art. 1, *United States Constitution*.)

Representatives in congress, how to be elected.—"The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature." (*Subd. 1, § 2, art. 1, U. S. Constitution*.)

Representatives in congress, when and how chosen.—"Representatives in the house of representatives of the congress of the United States shall be chosen in the several congressional districts at the general election held therein in the year 1896 and every second year thereafter. If any such representative shall resign he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office the clerk of the county in which such representative shall have resided at the time of his election shall, without delay, transmit a notice thereof to the secretary of state." (§ 190, *Election Law*.)

Election, appointment and term of office of county judge, surrogate, special county judge and special surrogate, and designation of justices of sessions.—"There shall continue to be elected in each of the counties now having such officers:

"1. A county judge * and a surrogate,† who shall severally hold the office for six years from and including the first day of January succeeding his election.

"2. A special county judge and a special surrogate, pursuant to the several acts of the legislature creating and respectively defining the terms and duties thereof.

"3. There shall continue to be appointed by the governor, by and with the consent of the senate, if in session, a county judge,

* In the county of Kings there shall be two county judges. See sec. 14, art. 6, Revised State Constitution.

† In the county of New York the term of surrogate is fourteen years. See sec. 15, art. 6, Revised State Constitution.

surrogate, special county judge or special surrogate when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office, until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled.

" * 4. There shall continue to be designated two justices of the peace of the county, having at least one year to serve from the first day of January succeeding their designation, to be justices of sessions for the county during the calendar year commencing on the first day of January succeeding their designation. Each elector may place upon his ballot at each general election under the words 'for sessions,' the name of one such justice of the peace and the two justices of the peace representing the two principal political parties into which the electors of the county are divided receiving the greatest number of votes shall be designated as such justices of the sessions for such term." (§ 220, *County Law*, chap. 686, *Laws* 1892.)

Election, appointment and term of office of sheriffs and coroners.

—" There shall continue:

" 1. To be elected in each of the counties a sheriff † and in each of the counties containing a population of one hundred thousand and over four coroners, and in all the counties such number of coroners, not more than four, as shall be fixed by the board of supervisors, who shall ‡ respectively, hold their offices for three years, from and including the first day of January succeeding their election.

" 2. To be appointed by the governor, a sheriff, or a coroner, when a vacancy shall occur in either of such offices, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled. (*See* § 180, *County Law as amended by chap. 333, Laws* 1898.)

Election, appointment, and term of office of district attorney.—

" There shall continue:

" 1. To be elected in each of the counties a district attorney, who

* Office of justices of sessions abolished after Jan. 1, 1896. See sec. 14, art. 6, Revised State Constitution.

† Sheriff to hold no other office and ineligible for next term. See sec. 1, art. 10, State Constitution.

‡ Office of coroner not a constitutional office.

shall hold his office for three years from and including the first day of January succeeding his election;

"2. To be appointed by the governor, a district attorney, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election thereafter at which such vacancy can be lawfully filled. (*See § 200, County Law.*)

Election, appointment, and term of office of county clerk.—

"There shall continue,

"1. To be elected in each of the counties a county clerk, who shall hold his office for three years from and including the first day of January succeeding his election;

"2. To be appointed by the governor, a county clerk, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding the first annual election after the happening of the vacancy." (*See § 160, County Law.*)

Election, appointment, and term of office of county treasurer.—

"There shall continue,

"1. To be elected in each of the counties, a county treasurer, who shall hold his office for three years from and including, in the county of Kings, the first Tuesday of August, in the county of Monroe, the first Tuesday of October, and in the other counties the first day of January, succeeding his election, and until his successor is duly elected and qualified;

"2. To be appointed by the governor, by and with the consent of the senate, if in session, a county treasurer, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including, in the county of Kings, the first Monday of August, in the county of Monroe, the first Monday of October, and in the other counties the last day of December, succeeding his appointment, and until his successor shall be duly elected and qualified. (*See § 140, County Law as amended by chap. 222, Laws 1893.*)

Election, appointment and term of office of superintendents of the poor.—"There shall continue to be elected or appointed in each of the counties one or more superintendents of the poor as heretofore; but no supervisor of a town, or county treasurer, shall be elected or appointed to such office. The board

of supervisors of any county having, or entitled to have three or more superintendents of the poor, may, at an annual meeting thereof determine by resolution that thereafter only one county superintendent of the poor shall be elected; but no superintendent of the poor shall be elected or appointed in such county until the general election next preceding the expiration of the terms of the superintendents in office, or the office shall be vacant. The term of any superintendent in office, or of any person duly elected thereto on the passage of such resolution, shall not be affected thereby. Such board may also, in counties having and entitled to have but one superintendent of the poor, in like manner determine that thereafter three superintendents of the poor be elected for such county. After the passage of a resolution, as herein provided, the powers herein conferred shall not be again exercised within a period of five years. Such resolution shall not take effect until the next calendar year succeeding its adoption.

" There shall continue,

" 1. To be elected annually in each of the counties so having and being entitled to three county superintendents, one county superintendent of the poor, who shall hold his office for three years from and including the first day of January succeeding his election, and until his successor is duly elected and qualifies;

" 2. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a county superintendent of the poor, when a vacancy shall occur in such office, and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

" 3. To be elected a county superintendent of the poor in a county when a vacancy shall occur in such office, and the term of which shall not expire on the last day of the next succeeding December, and the person so elected shall hold the office for such unexpired term, which shall be designated upon the ballots of the electors, or until his successor shall be elected and qualifies;

" 4. To be elected in each of the counties so having, and entitled to have but one superintendent, a superintendent of the poor, who shall hold his office for three years from and includ-

ing the first day of January succeeding his election, and until his successor is duly elected and qualified;

" 5. To be appointed by the board of supervisors, if in session, otherwise by the county judge, a superintendent of the poor, in a county having and being entitled to but one superintendent, when a vacancy shall occur in such office; and the person so appointed shall hold the office until and including the last day of December succeeding his appointment, and until his successor shall be elected and qualifies;

" 6. To be elected in the succeeding year after the board of supervisors of a county having but one superintendent of the poor shall have adopted a resolution to have three superintendents, if the term of the superintendent in office expires with such year, three superintendents of the poor for such county, for the terms of one, two and three years respectively, which terms shall be respectively designated upon the ballots of the electors voting for such officers. If the term of the superintendent in office will not expire with such succeeding year, there shall be elected two superintendents of the poor for such county, for such terms, to be so designated upon the ballots of the electors voting for such officers, as will make the terms of one of the three superintendents expire with each succeeding year, and one superintendent of the poor shall hereafter be annually elected. Such persons so elected shall hold the office from and including the first day of January succeeding his election, and until and including the last day of December of the year in which his term shall so expire, and until his successor is duly elected and qualifies. When ballots are voted without designating the term, the first name on the ballot shall be deemed as intended for the full or longer term of the officer voted for; the second name for the next longer term, and the third name for the shorter term." (§ 210, *County Law, chap. 686, Laws 1892.*)

Election, term of office, etc., of school commissioners.—"A school commissioner for each school commissioner district shall be elected by the electors thereof, at the general election in the year eighteen hundred and ninety-six, and tri-ennially thereafter. Any person of full age, a citizen of the United States, a resident of the state, and of the county in which a school commissioner district is situated, shall be eligible to the office of school com-

missioner. No person shall be deemed ineligible to such office by reason of sex who has the other qualifications herein provided. It shall be the duty of county clerks, and they are hereby required, as soon as they shall have official notice of the election or appointment of a school commissioner, for any district in their county, to forward to the superintendent of public instruction a duplicate certificate of such election or appointment, attested by their signature and the seal of the county." (§ 3, *School Law, chap. 556, Laws 1894.*)

"The term of office of such commissioner shall commence on the first day of January next after his election, and shall be for three years and until his or her successor qualifies. Every person elected to the office, or appointed to fill a vacancy, must take the oath of office prescribed by the constitution, before the county clerk or before any officer authorized to take, within this state, the acknowledgment of the execution of a deed of real property, and file it with the county clerk; and if he or she omit so to do, the office shall be deemed vacant." (§ 4, *School Law, chap. 556, Laws 1894.*)

Commencement of term of office.—"The term of office of an elective officer, unless elected to fill a vacancy then existing, shall commence on the first day of January next after his election, if the commencement thereof be not otherwise fixed by law." (§ 4, *Public Officers' Law, chap. 681, Laws 1892.*)

Holding over after expiration of term.—"Every officer except a judicial officer, a notary public, a commissioner of deeds and an officer whose term is fixed by the constitution, having duly entered on the duties of his office, shall unless the office shall terminate or be abolished, hold over and continue to discharge the duties of his office after the expiration of the term for which he shall have been chosen, until his successor shall be chosen and qualified; but after the expiration of such term, the office shall be deemed vacant for the purpose of choosing his successor. An officer so holding over for one or more entire terms, shall, for the purpose of choosing his successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only." (§ 5, *Public Officers' Law, chap. 681, Laws 1892.*)

Terms of officers chosen to fill vacancies.—"If an appointment of a person to fill a vacancy in an appointive office be made by the officer, or by the officers, body or board of officers, authorized to make appointment to the office for the full term, the person so appointed to such vacancy shall hold office for the balance of the unexpired term. The term of office of an officer appointed to fill a vacancy in an elective office, shall be until the commencement of the political year next succeeding the first annual election after the happening of the vacancy, if the office be made elective by the constitution, or at which the vacancy can be filled by election, if the office be otherwise made elective." (§ 27, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

IV.

RESIGNATIONS, VACANCIES AND REMOVALS.

Resignation of officers.—"Public officers may resign their offices as follows:

"1. The governor, lieutenant-governor, secretary of state, comptroller, attorney general, state engineer and surveyor, to the legislature;

"2. All officers appointed by the governor alone, or by him with the consent of the senate, to the governor;

"3. Senators and members of assembly, to the presiding officers of their respective houses;

"4. Sheriffs, coroners, county clerks, district attorneys and registers of counties, to the governor;

"5. Every other county officer, to the county clerk;

"6. Every town officer, to the town clerk;

"7. Every officer of any other municipal corporation, to the clerk of the corporation;

"8. Every other appointive officer, where not otherwise provided by law, to the body, board or officer that appointed him, and every other elective officer, where not otherwise provided by law, to the secretary of state.

"Every resignation shall be in writing addressed to the officer or body to whom it is made. If addressed to an officer, it shall take effect upon delivery to him at his place of business, or when it shall be filed in his office.

" If addressed to the legislature or to the presiding officer of either house thereof, it shall be delivered to and filed by the secretary of state, and shall take effect when so delivered, and he shall forthwith communicate the fact of such resignation to the legislature or to such house, if in session, or if not, at its first meeting thereafter.

" If addressed to any other body it shall be delivered to the presiding officer or clerk of such body, if there be one, and if not, to any member thereof, and shall take effect upon such delivery, and shall be filed with the clerk, or if there be no clerk, with the other records of such body. A delivery at the office or place of residence or business of the person to whom any such resignation may be delivered shall be a sufficient delivery thereof." (§ 21, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

Resignation of representative in congress.—Notice of such resignation to be transmitted to secretary of state. (*See* § 190, *Election Law*.)

Removal of judicial officers.—" Judges of the court of appeals and justices of the supreme court, may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statment of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal." (§ 11, *art. 6, Revised State Constitution*.)

Removal of officers by senate.—" The governor before making a recommendation to the senate for the removal of any officer may in his discretion, take proofs for the purpose of determining whether such recommendation shall be made.

" The secretary of state, comptroller, treasurer, attorney-general, or the state engineer and surveyor, may be removed by the senate, on the recommendation of the governor, for misconduct or malversation in office, if two-thirds of all the members elected to

the senate shall concur therein. No such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him and have an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal. The governor may convene the senate in extra session for the investigation of such charges. The senate shall have power to make such rules as it may see fit for the practice before it. At the time appointed for the investigation, the senate shall proceed to hear and try the charges against such officer, and may take proofs in relation thereto.

"The governor may direct the attorney-general or may appoint any suitable person to conduct the trial of such charges before the senate.

"An officer appointed by the governor by and with the advice and consent of the senate, may be removed by the senate upon the recommendation of the governor.

"If the senate shall reject a recommendation of removal the clerk of the senate shall, by a writing signed by him and by the president and clerk of the senate, communicate the fact of such rejection to the governor. If the senate shall concur in such a recommendation the removal shall take effect upon the passage of the resolution of concurrence, and duplicate copies of such resolution, certified by the clerk and president of the senate, shall be executed and delivered by the clerk to the secretary of state." (§ 22, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

Removals by governor.*—"An officer appointed by the governor for a full term or to fill a vacancy, any county treasurer, any county superintendent of the poor, any register of a county, any coroner or any notary public, may be removed by the governor within the term for which such officer shall have been chosen, after giving to such officer a copy of the charges against him and an opportunity to be heard in his defense." (§ 23, *Pub. Officers Law*, chap. 681, *Laws* 1892. *Thus amended by chap. 238, L. 1899; chap. 91, L. 1902; chap. 128, L. 1903.*)

Evidence in proceedings for removal by governor.—"The governor may take the evidence in any proceeding for the removal

* "The governor may also remove sheriffs, county clerks, district attorneys and registers in counties within the terms for which they shall have been elected, giving to such officers copies of charges against them and an opportunity of being heard in their defense. (*Sec. 1, art. 10, Constitution.*)

by him of a public officer or may direct that the evidence be taken before a justice of the supreme court of the district, or the county judge of the county, in which the officer proceeded against shall reside, or before a commissioner appointed by the governor for that purpose by an appointment in writing, filed in the office of the secretary of state. The governor may direct such judge or commissioner to report to him the evidence taken in such proceeding, or the evidence and the findings by the judge or commissioner of the material facts deemed by such judge or commissioner to be established. The commissioner or judge directed to take such evidence may require witnesses to attend before him, and shall issue subpoenas for such witnesses as may be requested by the officer proceeded against.

"The governor may direct the attorney-general, or the district attorney of the county in which the officer proceeded against shall reside to conduct the examination into the truth of the charges alleged as ground for such removal. If the examination shall be before a commissioner or judge, it shall be held at such place in the county in which the officer proceeded against shall reside as the commissioner or judge shall appoint, and at least eight days after written notice of the time and place of such examination shall have been given to the officer proceeded against.

"All sheriffs, coroners, constables and marshals to whom process shall be directed and delivered under this section shall execute the same without necessary * delay." (§ 24, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

Removal of officers by state officers.—"Every removal of an officer by one or more state officers, shall be in written duplicate orders, signed by the officer, or by all or a majority of the officers making the removal, or if made by a body or board of state officers may be evidenced by duplicate certified copies of the resolution or order of removal, signed either by all or a majority of the officers making the removal, or by the president and clerk of such body or board. Both such duplicate orders or certified copies shall be delivered to the secretary of state, who shall record in his office one of such duplicates, and shall, if the officer removed is a state officer, deliver the other to such officer by messenger, if required by the governor, and otherwise by mail or as the secretary of state

* So in the original.

shall deem advisable, and shall, if directed by the governor, cause a copy thereof to be published in the state papers. If the officer removed be a local officer, he shall send the other of such duplicates to the county clerk of the county in which the officer removed shall have resided at the time he was chosen to the office, and such clerk shall file the same in his office, and forthwith notify the officer removed of his removal." (§ 25, *Pub. Officers' Law*, chap. 681, *Laws* 1892.)

Vacancies in elective offices.—"The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy." (§ 5, art. 10, *State Constitution*.)

Creation of vacancies.—"Every office shall be vacant upon the happening of either of the following events before the expiration of the term thereof:

- "1. The death of the incumbent;
- "2. His resignation;
- "3. His removal from office;
- "4. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen;
- "5. His conviction of a felony, or a crime involving a violation of his oath of office;
- "6. The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant;
- "7. His refusal or neglect to file his official oath or undertaking, if one is required, before or within fifteen days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within fifteen days after notice of his appointment, or within fifteen days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within fifteen days after notice to him in pursuance of law, that such renewal undertaking is required. When a new office or an additional incumbent of an existing office, shall be created, such office shall, for the purposes of an appointment or election, be vacant from the date

of its creation, until it shall be filled by election or appointment." (§ 20, *Pub. Officers' Law, chap. 681, Laws 1892.*)

Vacancies filled by legislature.—"When a vacancy occurs or exists, other than by removal, in the office of the secretary of state, comptroller, treasurer, attorney-general, or state engineer and surveyor, or a resignation of any such office to take effect at any future day shall have been made while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such actual or prospective vacancy." (§ 30, *Pub. Officers' Law, chap. 681, Laws 1892.*)

Filling other vacancies.—"If a vacancy shall occur, otherwise than by expiration of term, with no provision of law for filling the same, if the office be elective, the governor shall appoint a person to execute the duties thereof until the vacancy shall be filled by an election. But if the term of such officer shall expire with the calendar year in which the appointment shall be made, or if the office be appointive, the appointee shall hold for the residue of the term." (§ 31, *Pub. Officers' Law, chap. 681, Laws 1892.*)

Vacancies in office of judges of court of appeals.—"When a vacancy shall occur otherwise than by expiration of the term, in the office of chief or associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session the governor may fill such vacancy by appointment. If any such appointment of chief judge shall be made from the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which such vacancy shall be filled." (§ 8, *art. 6, State Constitution.*)

Vacancy in office of justices of supreme court.—"When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled." (*Part of § 4, art. 6, State Constitution.*)

Vacancies in office of county judge and surrogate to be filled in same manner as like vacancies occurring in office of justice of supreme court. (*See § 15, art. 6, State Const.*)

Vacancies in office of United States senator.—Whenever on the meeting of the legislature of any state a vacancy exists in the representation of such state in the senate, the legislature shall proceed, on the second Tuesday after meeting and organization, to elect a person to fill such vacancy, in the manner prescribed in the preceding section for the election of a senator for a full term.

Whenever during the session of the legislature of any state, a vacancy occurs in the representation of such state in the senate, similar proceedings to fill such vacancy shall be had on the second Tuesday after the legislature has organized and has notice of such vacancy. (*See § 16, 1st Rev. U. S. Stat.*)

Vacancies in office of representative in congress.—If any such representative shall resign he shall forthwith transmit a notice of his resignation to the secretary of state, and if a vacancy shall occur in any such office the clerk of the county in which such representative shall have resided at the time of his election shall, without delay, transmit a notice thereof to the secretary of state. (*See § 160, Election Law.*)

"When vacancies happen in the representative from any state, the executive authority thereof shall issue writs of election to fill such vacancies. (*See § 2, art. 1, U. S. Const.*)

Special elections.—When to be had to fill such vacancies. (*See § 4, Election Law.*)

Notice of existence of vacancy.—"When a judgment shall be rendered by any court convicting an officer of a felony, or of a

crime involving a violation of his oath of office, or declaring the election or appointment of any officer to be void, or that the office of any officer has been forfeited or become vacant, the clerk of such court shall give notice thereof to the governor, stating the cause of such conviction or judgment.

"Whenever a public officer shall die before the expiration of his term of office, or shall cease to be a resident of the political subdivision of the state or a municipal corporation in which he is required to be a resident as a condition of continuing in the office, the county clerk of the county in which such officer shall have resided immediately prior to such death or removal, shall immediately give notice of such death or removal to the governor. If the governor is not authorized to fill any vacancy of which he shall have notice, he shall forthwith give notice of the existence of such vacancy to the officer or officers, or to the body or board of officers authorized to fill the vacancy, or if such vacancy may be filled by an election, to the officers authorized to give notice of such election." (§ 26, *Pub. Officers' Law*, 1892.)

Filling vacancies in elective offices at general and special elections.—"A vacancy occurring before October fifteenth in any year, in an office authorized to be filled at a general election, shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election, or unless a special election therefor shall have been ordered to be held on or after such fifteenth day of October and before such general election.

"Upon the failure to elect to any office, except governor or lieutenant-governor, at a general or special election at which the office is authorized to be filled; or upon the death or disqualification of a person elected to office at a general or special election before the commencement of his official term; or upon the occurrence of a vacancy in any elective office, which cannot be filled by appointment for a period extending to or beyond the next general election at which a person may be elected thereto, the governor shall make proclamation of a special election to fill such office, specifying the district or county in which the election is to be held, and the day thereof, which shall not be less than twenty nor more than forty days from the date of the proclamation.

"A special election shall not be held to fill a vacancy in the

office of a representative in congress, unless such vacancy occur on or before the first day of July of the last year of the term of office, or unless occurring thereafter and a special session of congress be called to meet before the next general election, or be called after October fourteenth of such year; nor to fill a vacancy in the office of state senator, unless the vacancy occur before the first day of April of the last year of the term of office; nor to fill a vacancy in the office of a member of assembly, unless occurring before the first day of April in any year, unless the vacancy occur in either such office of senator or member of assembly, after such first day of April, and a special session of the legislature be called to meet between such first day of April and the next general election, or be called after October fourteenth of such year.

“ If a special election to fill an office shall not be held as required by law, the office shall be filled at the next general election.” (§ 4, *Electon Law*, 1892.)

Political Divisions of State, Counties, Towns.

ELECTION DISTRICTS.

NUMBER OF ELECTION DISTRICTS IN NEW YORK STATE, AS REPORTED BY
COUNTY CLERKS, JANUARY 1, 1901.

	DISTS.		DISTS.
Albany	129	Onondaga	132
Allegany.....	41	Ontario.....	45
Broome.....	69	Orange.....	85
Cattaraugus	60	Orleans.....	29
Cayuga	51	Oswego	59
Chautauqua.....	73	Otsego	57
Chemung.....	46	Putnam.....	13
Chenango.....	40	Queens.....	72
Clinton.....	35	Rensselaer.....	105
Columbia.....	41	Richmond	40
Cortland.....	29	Rockland	31
Delaware.....	50	St. Lawrence.....	91
Dutchess.....	68	Saratoga.....	60
Erie.....	172	Schenectady.....	31
Essex.....	34	Schoharie.....	32
Franklin.....	39	Schuyler.....	20
Fulton.....	37	Seneca.....	26
Genesee.....	30	Steuben.....	66
Greene.....	32	Suffolk.....	67
Hamilton.....	11	Sullivan.....	34
Herkimer.....	48	Tioga.....	37
Jefferson.....	78	Tompkins.....	39
Kings.....	518	Ulster.....	78
Lewis.....	36	Warren.....	30
Livingston.....	37	Washington.....	48
Madison.....	49	Wayne.....	46
Monroe.....	122	Westchester.....	104
Montgomery.....	45	Wyoming.....	33
Nassau.....	42	Yates.....	23
New York.....	892		
Niagara.....	54		
Oneida.....	106		
			<u>4,647</u>

Creation, division and alteration of election districts.—Every town, or ward of a city not subdivided into election districts shall be an election district. The Town board of every town containing more than four hundred electors, and the common council of every city except New York, in which there shall be a ward containing more than four hundred electors, shall, on or before the first day of July in each year, whenever necessary so to do, divide such town or ward respectively into election districts, each of which shall be compact in form, wholly within the town or ward, and shall contain respectively as near as may be, four hundred electors, but no such ward or town shall be again divided into election districts until at some general election, the number of votes cast in one or more districts thereof shall exceed six hundred; and in such a case the redivision shall apply only to the town or ward in which such district is situated. If any part of a city shall be within a town, the town board shall divide into election districts only that part of the town which is outside of the city. No election district including any part of a city shall include any part of a town outside of a city. A town or a ward of a city containing less than four hundred electors may, at least thirty days before the election or appointment of inspectors of election of such town or ward, be divided into election districts by the board or other body charged with such duty when, in the judgment of such board or body, the convenience of the electors shall be promoted thereby. The creation, division or alteration of an election district outside of a city shall take effect immediately after the next town meeting, and at such next town meeting inspectors of election shall be elected for each election district as constituted by such creation, division or alteration. If the creation, division or alteration of an election district is rendered necessary by the creation, division or alteration of a town, or ward of a city, it shall take effect immediately, but a new town or ward shall not be created, and no new town or ward shall be subdivided into election districts between the first day of August of any year, and the day of the general election next thereafter. If inspectors are not elected or appointed for such district outside of a city before September the first next thereafter, the town board of the town shall appoint four inspectors of election for such district. If a town shall include a city, or a portion of a city, only such election districts as are wholly outside of the city shall be deemed election districts of the town, except for the purpose of town meetings. The board of elections of the city of New York shall divide such city into election districts on or before the first day of July in any year whenever necessary so to do as hereinafter provided. The election districts existing pursuant to the provisions of law in the counties within the city of New York, shall continue with their present boundaries, so far as possible, until at some general or city election the number of registered

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electors therein shall exceed six hundred and fifty, provided, however, that any election district containing less than seventy-five electors in such counties, made necessary by the crossing of congressional lines with other political divisions, may be consolidated with contiguous election districts in any year when no representative in congress is to be voted for in such districts. On or before the first day of July in every year the board of elections of the city of New York shall divide each election district of said city which contains more than six hundred and fifty electors, as shown by the registration of electors for the election of the preceding year, into two or more election districts. Such election districts so established in the city of New York shall not again be changed until at some general election the number of registered electors therein shall exceed six hundred and fifty, except where changes are made necessary by a change in the boundaries of congressional, senate, or assembly districts or ward lines, provided, however, that when the number of registered electors in any election district shall for two consecutive years, be less than two hundred and fifty, such district may be consolidated with contiguous election districts in the discretion of said board of elections. In that portion of the city of New York within the county of New York each election district shall be compact in form, entirely within an assembly district and numbered in consecutive order therein respectively. In that portion of the city of New York outside of the county of New York each election district shall be compact in form, entirely within a ward and numbered in consecutive order therein respectively. No election district shall contain portions of two counties, or two senate or assembly districts or two wards. Each town and each part of a town included in the city of New York, as constituted by the Greater New York charter, shall be respectively deemed to be a ward within the meaning of this section. § 8, Election Law. (*Thus amended by chap. 85, L. 1901.*)

Maps and certificates of boundaries of election districts.—"When a ward of a city or an assembly district within a city shall be divided into two or more election districts, the officers or board creating, dividing or altering such election districts, shall forthwith make a map or description of such division, defining it by known boundaries, and cause such map or description to be kept open for public inspection in the office of the city clerk, and cause copies thereof to be posted not less than ten days prior to the first day of registration in each year, in at least ten of the most public places in each election district so created, divided or altered, and shall, prior to every election, furnish copies of such map or description to the inspectors of election in each election district of such ward or assembly district. The officers creating, dividing or altering an election district in a town shall forthwith make a certificate or map thereof, exhibiting the districts so created, divided or altered, and their numbers respectively, and file

the same in the county clerk's office, and a copy thereof in the town clerk's office, and cause copies of the same to be posted in at least five of the most public places in each election district of such town, and the county clerk shall, prior to every general election, furnish copies of such maps or certificates to the inspectors of election in each election district of such town, provided such election district is not coterminous with the town lines." (§ 9, *Election Law*.)

SENATE DISTRICTS.

As apportioned by the state constitution in 1895.

First district.—Counties of Suffolk and Richmond.

Second district.—County of Queens.

Third district.—That part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

Fourth district.—That part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

Fifth district.—That part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

Sixth district.—That part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

Seventh district.—That part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

Eighth district.—That part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

Ninth district.—That part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

Tenth district.—That part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the Bowery, Division street, Grand street

and Jackson street, to the East river and thence around the southern end of Manhattan island, to the place of beginning, and also Governor's, Bedlow's and Ellis islands.

Eleventh district.—That part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

Twelfth district.—That part of the county of New York lying north of districts numbers ten and eleven and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

Thirteenth district.—That part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river to the place of beginning.

Fourteenth district.—That part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

Fifteenth district.—That part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central Park at Ninety-seventh

street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third Avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

Sixteenth district.—That part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth street, and running thence along West Nineteenth street, Eighth avenue, West Twentieth street, the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

Seventeenth district.—That part of the county of New York lying north of district number sixteen, and within and bounded by a line beginning at the junction of Eighth avenue and West Forty-third street, and running thence along West Forty-third street, Tenth avenue, West Forty-sixth street, the Hudson river, West Eighty-ninth street, Tenth or Amsterdam avenue, West Eighty-sixth street, Ninth or Columbus avenue, West Eighty-first street and Eighth avenue, to the place of beginning.

Eighteenth district.—That part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street, and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

Nineteenth district.—That part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central Park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

Twentieth district.—That part of the county of New York lying north of districts numbers eighteen and fifteen, and within and

bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers, to the place of beginning; and also Randall's island and Ward's island.

All of the above districts in the county of New York, bounded upon or along the boundary waters of the county, shall be deemed to extend to the county line.

Twenty-first district.—That part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred and Twenty-ninth street, Fifth avenue and the Harlem river, to the place of beginning; and all that part of the county of New York not hereinbefore described.

Twenty-second district.—County of Westchester.

Twenty-third district.—Counties of Orange and Rockland.

Twenty-fourth district.—Counties of Dutchess, Columbia and Putnam.

Twenty-fifth district.—Counties of Ulster and Greené.

Twenty-sixth district.—Counties of Delaware, Chenango and Sullivan.

Twenty-seventh district.—Counties of Montgomery, Fulton, Hamilton and Schoharie.

Twenty-eighth district.—Counties of Saratoga, Schenectady and Washington.

Twenty-ninth district.—County of Albany.

Thirtieth district.—County of Rensselaer.

Thirty-first district.—Counties of Clinton, Essex and Warren.

Thirty-second district.—Counties of St. Lawrence and Franklin.

Thirty-third district.—Counties of Otsego and Herkimer.

Thirty-fourth district.—County of Oneida.

Thirty-fifth district.—Counties of Jefferson and Lewis.

Thirty-sixth district.—County of Onondaga.

Thirty-seventh district.—Counties of Oswego and Madison.

Thirty-eighth district.—Counties of Broome, Cortland and Tioga.

Thirty-ninth district.—Counties of Cayuga and Seneca.

Fortieth district.—Counties of Chemung, Tompkins and Schuyler.

Forty-first district.—Counties of Steuben and Yates.

Forty-second district.—Counties of Ontario and Wayne.

Forty-third district.—That part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

Forty-fourth district.—That part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth and twentieth wards of the city of Rochester, as at present constituted.

Forty-fifth district.—Counties of Niagara, Genesee and Orleans.

Forty-sixth district.—Counties of Allegany, Livingston and Wyoming.

Forty-seventh district.—That part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

Forty-eighth district.—That part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

Forty-ninth district.—That part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

Fiftieth district.—Counties of Chautauqua and Cattaraugus.

ASSEMBLY DISTRICTS.

(As apportioned by the constitution of 1894, and divided into assembly districts by boards of supervisors in June, 1895.)

ALBANY COUNTY.

First district.—Composed of towns of Bethlehem, Coeymans and New Scotland, and the first, fourteenth, fifteenth, sixteenth

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and eighteenth wards and part of the second ward of the city of Albany; 37,896 inhabitants excluding aliens.

Second district.—Towns of Berne, Guilderland, Knox, Rensselaerville and Westerlo, and the seventh, tenth, eleventh, thirteenth, seventeenth and nineteenth wards and part of the twelfth ward of the city of Albany; 37,752 inhabitants excluding aliens.

Third district.—The third, fourth, fifth, sixth, eighth and ninth wards and parts of the second and twelfth wards of the city of Albany; 38,323 inhabitants excluding aliens.

Fourth district.—The city of Cohoes and towns of Colonie and Watervliet; 42,777 inhabitants excluding aliens.

ALLEGANY COUNTY—ONE DISTRICT.

BROOME COUNTY.

First district.—Towns of Binghamton, Colesville, Conklin, Dickinson, Fenton, Kirkwood, Sandford and Windsor and the seventh, eighth, ninth, tenth, eleventh, twelfth and thirteenth wards of the city of Binghamton; 30,892 inhabitants excluding aliens.

Second district.—The towns of Barker, Chenango, Lisle, Maine, Nanticoke, Triangle, Union and Vestal, and the first, second, third, fourth, fifth and sixth wards of the city of Binghamton; 30,618 inhabitants excluding aliens.

CATTARAUGUS COUNTY.

First district.—City of Olean, towns of Allegany, Ashford, Farmersville, Franklinville, Freedom, Hinsdale, Humphrey, Ischua, Lyndon, Machias, Olean, Portville and Yorkshire; 30,131 inhabitants excluding aliens.

Second district.—Towns of Carrollton, Cold Spring, Conewango, Dayton, East Otto, Elko, Ellicottville, Great Valley, Leon, Little Valley, Mansfield, Napoli, New Albion, Otto, Perrysburg, Persia, Randolph, Red House, Salamanca and South Valley; 29,594 inhabitants excluding aliens.

CAYUGA COUNTY.

First district.—Towns of Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Sterling, Throop, Victory, and the first, second, fifth, sixth and tenth wards of the city of Auburn; 30,536 inhabitants excluding aliens.

Second district.—Towns of Aurelius, Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipio, Sempronius, Springport,

Summer Hill and Venice, and the third, fourth, seventh, eighth and ninth wards of the city of Auburn; 29,793 inhabitants excluding aliens.

CHAUTAUQUA COUNTY.

First district.—Towns of Arkwright, Busti, Carroll, Charlotte, Cherry Creek, Ellery, Ellicott, Ellington, Gerry, Harmony, Jamestown, Kiantone, Poland, Stockton and Villenova; 37,353 inhabitants excluding aliens.

Second district.—Towns of Chautauqua, Clymer, Dunkirk, Hanover, French Creek, Mina, Pomfret, Portland, Ripley, Sheridan, Sherman and Westfield; 36,718 inhabitants excluding aliens.

CHEMUNG COUNTY—ONE DISTRICT.

CHENANGO COUNTY—ONE DISTRICT.

CLINTON COUNTY—ONE DISTRICT.

COLUMBIA COUNTY—ONE DISTRICT.

CORTLAND COUNTY—ONE DISTRICT.

DELAWARE COUNTY—ONE DISTRICT.

DUTCHESS COUNTY.

First district.—Towns of Milan, Pine Plains, North East, Stamford, Amenia, Washington, Pleasant Valley, Lagrange, Unionvale, Dover, Pawling, Beekman, East Fishkill, Fishkill and Wappinger's Falls; 37,835 inhabitants excluding aliens.

Second district.—Towns of Red Hook, Rhinebeck, Clinton, Hyde Park, Poughkeepsie and Poughkeepsie city; 37,213 inhabitants excluding aliens.

ERIE COUNTY.

First district.—The first, second, third, sixth, nineteenth and twentieth wards of the city of Buffalo; 48,249 inhabitants excluding aliens.

Second district.—The fifteenth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, 51,526 inhabitants excluding aliens.

Third district.—The fifth, eleventh and fourteenth wards of the city of Buffalo; 34,216 inhabitants excluding aliens.

Fourth district.—The fourth, eighth, ninth and tenth wards of the city of Buffalo; 36,470 inhabitants excluding aliens.

Fifth district.—The seventh, twelfth, thirteenth and sixteenth wards of the city of Buffalo; 31,215 inhabitants excluding aliens.

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POPULATION OF COUNTIES, COUNTIES AND TOWNS.

First district.—The seventeenth, eighteenth and twenty-fifth wards of the city of Albany; 35,767 inhabitants excluding aliens.

Second district.—The towns of Elma, Manilla, Cheektowaga, Cheektowaga, Cheektowaga, Clarence, Amherst, Tonawanda and Cheektowaga; 33,519 inhabitants excluding aliens.

Third district.—The towns of Collins, Concord, Sardinia, North Collins, East Collins, Evans, Boston, Colden, Holland, Wales, Cheektowaga, East Hamburg, Hamburg and West Seneca; 33,519 inhabitants excluding aliens.

ESSEX COUNTY—ONE DISTRICT.

FRANKLIN COUNTY—ONE DISTRICT.

FULTON AND HAMILTON COUNTIES—ONE DISTRICT.

GENESEE COUNTY—ONE DISTRICT.

GREENE COUNTY—ONE DISTRICT.

HERKIMER COUNTY—ONE DISTRICT.

JEFFERSON COUNTY.

First district.—Towns of Adams, Brownville, Cape Vincent, Clayton, Ellisburg, Henderson, Hounsfield, Lorraine, Lyme, Pamela and the third and fourth wards of the city of Watertown; 32,999 inhabitants excluding aliens.

Second district.—Towns of Alexandria, Antwerp, Champion, Le Ray, Orleans, Philadelphia, Rodman, Rutland, Theresa, Watertown, Wilna and Worth and the first and second wards of the city of Watertown; 33,121 inhabitants excluding aliens.

KINGS COUNTY.

First district.—Beginning at a point on the boundary line of the county of Kings, formed by the junction of a line drawn in continuation of the center line of Atlantic avenue in the city of Brooklyn; thence easterly to the center of Henry street; thence southerly to the center of Amity street; thence easterly to the center of Court street; thence southerly to the center of Bergen street; thence easterly to the center of Fourth avenue; thence northerly to the center of Flatbush avenue; thence northwesterly to the center of Fulton street; thence westerly and northerly and westerly to the center of Hicks street; thence southerly to the center of Poplar street; thence westerly to the center of Willow street; thence southerly to the center of Middagh street; thence west-

ly to the center of Columbia Heights; thence northerly to the center of Doughty street; thence westerly to the center of Furman street; thence northerly to the center of Fulton street; thence easterly to the boundary line of the county of Kings on the East river; thence southerly to the point of beginning. Comprises part of first ward, the third ward and part of sixth ward of the city of Brooklyn; 39,133 inhabitants excluding aliens.

Second district.—Beginning at a point on the boundary line of the county of Kings on the East river, formed by the junction of a line drawn in continuation of the center line of Fulton street; running thence easterly along the center of Fulton street to the center of Furman street; thence southerly to the center of Doughty street; thence easterly to the center of Columbia Heights; thence southerly to the center of Middagh street; thence easterly to the center of Willow street; thence northerly to the center of Poplar street; thence easterly to the center of Hicks street; thence northerly to the center of Fulton street; thence easterly, southerly and easterly to the center of Bridge street; thence northerly to the center of Johnson street; thence easterly to the center of Navy street; thence northerly to the boundary line of the United States navy yard; thence northerly along said boundary line to a point on the boundary line of the county of Kings on the East river; thence along said boundary line westerly to the place of beginning. Comprises the second, fourth and fifth wards and part of first ward of the city of Brooklyn; 38,958 inhabitants excluding aliens.

Third district.—Beginning at a point on the boundary line of the county of Kings on the East river, formed by the junction of a line drawn in continuation of the center line of Atlantic avenue; running thence easterly along the center of Atlantic avenue to the center of Henry street; thence southerly to the center of Amity street; thence easterly to the center of Court street; thence southerly to the center of Fourth place; thence westerly along the center of Fourth place and Coles street to the center of Hamilton avenue; thence northwesterly along the center of Hamilton avenue to a point on the boundary line of the county of Kings on the East river; thence along the East river northerly to the place of beginning. Comprises the sixth ward, except the third election district of the city of Brooklyn; 39,382 inhabitants excluding aliens.

Fourth district.—Beginning at a point on the boundary line of the county of Kings on the East river, on a line drawn through

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Sixth district.—The seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo; 35,767 inhabitants excluding aliens.

Seventh district.—The towns of Elma, Manilla, Cheektowag, Lancaster, Alden, Newstead, Clarence, Amherst, Tonawanda and Grand Island; 31,632 inhabitants excluding aliens.

Eighth district.—The towns of Collins, Concord, Sardinia, North Collins, Brant, Eden, Evans, Boston, Colden, Holland, Wales, Aurora, East Hamburg, Hamburg and West Seneca; 33,519 inhabitants excluding aliens.

ERIE COUNTY—ONE DISTRICT.

FRANKLIN COUNTY—ONE DISTRICT.

FULTON AND HAMILTON COUNTIES—ONE DISTRICT.

GENESSEE COUNTY—ONE DISTRICT.

GREENE COUNTY—ONE DISTRICT.

HEERMER COUNTY—ONE DISTRICT.

JEFFERSON COUNTY.

First district.—Towns of Adams, Brownville, Cape Vincent, Clayton, Ellisburg, Henderson, Hounsfield, Lorraine, Lowville, Pamela and the third and fourth wards of the city of Watertown; 12,000 inhabitants excluding aliens.

Second district.—Towns of Alexandria, Antwerp, Champlain, Ray, Orleans, Philadelphia, Rodman, Rutland, Theresa, Van Hook, Wilna and Worth and the first and second wards of the city of Watertown; 22,101 inhabitants excluding aliens.

KINGS COUNTY.

One district.—Beginning at a point on the boundary line of the county of Kings, thence by the location of a line thence in the direction of the river line of Atlantic Avenue in the city of Brooklyn, thence easterly to the corner of Henry street, thence southerly to the corner of Adams street, thence easterly to the corner of Court street, thence southerly to the corner of Bergen street, thence easterly to the corner of Fulton Avenue, thence southerly to the corner of Nassau Avenue, thence northwesterly to the corner of Third street, thence westerly and northerly and westerly to the corner of Sixth street, thence southerly to the corner of Fourth street, thence westerly to the corner of Willow street, thence southerly to the corner of Madison street, thence westerly

erly to the center of Columbia Heights ; thence northerly to the center of Doughty street ; thence westerly to the center of Furman street ; thence northerly to the center of Fulton street ; thence westerly to the boundary line of the county of Kings on the East river ; thence southerly to the point of beginning. Comprises part of first ward, the third ward and part of sixth ward of the city of Brooklyn ; 39,133 inhabitants excluding aliens.

Second district.—Beginning at a point on the boundary line of the county of Kings on the East river, formed by the junction of a line drawn in continuation of the center line of Fulton street ; running thence easterly along the center of Fulton street to the center of Furman street ; thence southerly to the center of Doughty street ; thence easterly to the center of Columbia Heights ; thence southerly to the center of Middagh street ; thence easterly to the center of Willow street ; thence northerly to the center of Poplar street ; thence easterly to the center of Hicks street ; thence northerly to the center of Fulton street ; thence easterly, southerly and easterly to the center of Bridge street ; thence northerly to the center of Johnson street ; thence easterly to the center of Navy street ; thence northerly to the boundary line of the United States navy yard ; thence northerly along said boundary line to a point on the boundary line of the county of Kings on the East river ; thence along said boundary line westerly to the place of beginning. Comprises the second, fourth and fifth wards and part of first ward of the city of Brooklyn ; 38,958 inhabitants excluding aliens.

Third district.—Beginning at a point on the boundary line of the county of Kings on the East river, formed by the junction of a line drawn in continuation of the center line of Atlantic avenue ; running thence easterly along the center of Atlantic avenue to the center of Henry street ; thence southerly to the center of Amity street ; thence easterly to the center of Court street ; thence southerly to the center of Fourth place ; thence westerly along the center of Fourth place and Coles street to the center of Hamilton avenue ; thence northwesterly along the center of Hamilton avenue to a point on the boundary line of the county of Kings on the East river ; thence along the East river northerly to the place of beginning. Comprises the sixth ward, except the third election district of the city of Brooklyn ; 39,382 inhabitants excluding aliens.

Fourth district.—Beginning at a point on the boundary line of the county of Kings on the East river, on a line drawn through

the center of Division avenue; thence easterly along the center of Division avenue to a point where the center line of Lee avenue forms a junction with the center line of Division avenue; thence southeasterly to the center of Rodney street; thence southwesterly to the center of Bedford avenue; thence southeasterly and again southerly to the center of Flushing avenue; thence easterly to the center of Sanford street; thence southerly to the center of Park avenue; thence easterly to the center of Nostrand avenue; thence southerly to the center of Myrtle avenue; thence westerly to the center of Bedford avenue; thence southerly to the center of Breevort place; thence westerly to the center of Franklin avenue; thence southerly to the center of Atlantic avenue; thence westerly to the center of Washington avenue; thence to its junction with the center of the Wallabout canal; thence northwesterly to its point of intersection with the boundary line of the county of Kings on the East river; thence northerly to the place of beginning. Comprises the seventh ward, part of nineteenth ward and part of twenty-first ward of the city of Brooklyn; 47,553 inhabitants excluding aliens.

Fifth district.—Beginning at a point on the boundary line of the county of Kings on the East river, where the same would be intersected by the center line of Grand street, running thence southeasterly to the center line of Rodney street; thence southwesterly to the center line of Broadway; thence southeasterly to the center line of Flushing avenue; thence westerly to the center of Bedford avenue; thence northwesterly and again northwesterly to the center of Rodney street; thence northeasterly to the center of Lee avenue; thence northwesterly to the center of Division avenue; thence westerly and again westerly to a point on the boundary line of the county of Kings on the East river; thence northwesterly and northerly to the place of beginning. Comprises the thirteenth ward and part of nineteenth ward of the city of Brooklyn; 48,075 inhabitants excluding aliens.

Sixth district.—Beginning at a point formed by the intersection of the center lines of Lafayette avenue and Broadway; running thence northwesterly to the center of Flushing avenue; thence westerly to the center of Sanford street; thence southerly to the center of Park avenue; thence easterly to the center of Nostrand avenue; thence southerly to the center of Myrtle avenue; thence westerly to the center of Bedford avenue; thence southerly to the center of Lafayette avenue; thence easterly along the center of

Lafayette avenue to the place of beginning. Comprises the twenty-first ward, except election districts one, two and three, of the city of Brooklyn; 48,033 inhabitants excluding aliens.

Seventh district.— Beginning at a point on the Gowanus canal, formed by the junction of a line drawn in continuation of the center line of Nineteenth street; thence southeasterly to the center of Third avenue; thence southwesterly to the center of Twentieth street; thence southeasterly to the center of Sixth avenue; thence southwesterly to the center of Twenty-third street; thence southeasterly to the center of Seventh avenue; thence northeasterly to the center of Twentieth street; thence southeasterly along the southerly side of Twentieth street to a point distant one hundred feet northwesterly from the corner formed by the intersection of the southerly side of Twentieth street with the westerly side of Ninth avenue; thence southwesterly on a line parallel with and distant one hundred feet from the westerly side of Ninth avenue to the northerly line of Twenty-first street; thence southeasterly along the northerly line of Twenty-first street to the westerly line of Ninth avenue, and thence northeasterly along the westerly line of Ninth avenue to the southerly side of Twentieth street; thence southeasterly along the southerly side of Twentieth street to the westerly line of Tenth avenue; thence southwesterly along the westerly line of Tenth avenue to the southerly side of Twenty-second street, as laid down in the commissioners' map of the city of Brooklyn; thence southeasterly along the southerly side of Twenty-second street as so laid down; thence again southerly to the boundary line separating the city of Brooklyn from the former town of Flatbush, thence westerly and again northwesterly along said boundary line to its junction with the boundary line separating the former town of New Utrecht from the city of Brooklyn; thence along said boundary line, first southerly and following in all other directions along the boundary line separating the town of Flatlands and the former town of Gravesend, continuing along the southerly boundary line of the county of Kings, formed by, or on the waters of the Atlantic ocean, Gravesend bay, the Narrows, New York bay, Gowanus bay, the East river and Gowanus canal to the place of beginning. Comprises part of the eighth ward, the thirtieth and thirty-first wards of the city of Brooklyn; 37,559 inhabitants excluding aliens.

Eighth district.— Beginning at a point formed by the junction of the center line of First place with the center line of Court street;

running thence southeasterly along the center of First place to the center of Smith street; thence southwesterly to the center of Second street; thence southeasterly to the center of Bond street; thence northeasterly to the center of First street to the Gowanus canal; thence easterly and northeasterly along the Gowanus canal to the center of First street; thence southeasterly to the center of Fourth avenue; thence northeasterly to the center of Bergen street; thence northwesterly to the center of Court street; thence southwesterly along the center of Court street to the place of beginning. Comprises the tenth ward, except election districts twenty-five, twenty-six and twenty-seven of the city of Brooklyn; 38,799 inhabitants excluding aliens.

Ninth district.—Beginning at a point formed by the junction of the center line of First place with the center line of Court street; running thence southeasterly along the center of First place to the center of Smith street; thence southwesterly to the center of Second street; thence southeasterly along the center of Second street to the center of Bond street; thence northeasterly to the center of First street; thence along First street to its intersection with Gowanus canal; thence along Gowanus canal in all its directions to its intersection with Prospect avenue; thence southeasterly along Prospect avenue to the center of Sixth avenue; thence southwesterly to the center of Twentieth street; thence northwesterly to the center of Third avenue; thence northerly to the center of Nineteenth street; thence northwesterly to the Gowanus canal; thence southwesterly along said canal to Gowanus bay; thence north and northwest along the boundary line of the county of Kings to a point on the East river opposite the center of Hamilton avenue; thence southeasterly along the center of Hamilton avenue to its intersection with the center line of Coles street; thence northeasterly to the center of Henry street; thence southeasterly to the center of Fourth place; thence northeasterly to the center of Court street; thence northeasterly to the place of beginning. Comprises the twelfth ward, part of tenth ward and part of eighth ward of the city of Brooklyn; 38,068 inhabitants excluding aliens.

Tenth district.—Beginning at a point on the boundary line of the county of Kings on the East river or Wallabout bay formed by the junction of a line drawn in continuation of the center line of Washington avenue; running thence southerly along the center of Washington avenue to the center of Atlantic avenue; thence

westerly to the center of South Portland avenue; thence north-westerly to the center of Fulton street; thence westerly to the center of Fort Greene place; thence northerly to the center of De Kalb avenue; thence westerly to the center of Rockwell place; thence southerly to the center of Flatbush avenue; thence northerly to the center of Fulton street; thence westerly to the center of Bridge street; thence northerly to the center of Johnson street; thence easterly to the center of Navy street; thence northerly to the boundary line of the United States navy yard; and a line in continuation thereof to its junction with the boundary line of the county of Kings on the East river or Wallabout bay; thence easterly along said boundary line to the place of beginning. Comprises the twentieth ward and part of the eleventh ward of the city of Brooklyn; 41,041 inhabitants excluding aliens.

Eleventh district.—Beginning at a point formed by the junction of the center lines of Franklin and Atlantic avenues; running thence westerly along the center line of Atlantic avenue to the center of South Portland avenue; thence northerly to the center of Fulton street; thence westerly to the center of Fort Greene place; thence northerly to the center of De Kalb avenue; thence westerly to the center of Rockwell place; thence southerly to the center of Flatbush avenue; thence southeasterly to the center of Fourth avenue; thence southwesterly to the center of Garfield place; thence southeasterly to the center of Seventh avenue; thence northeasterly to the center of Carroll street; thence easterly to the center of Ninth avenue; thence northerly along the center of Ninth avenue continuing to a point at the center of Flatbush avenue; thence southeasterly to its junction with the boundary line of the former town of Flatbush; thence northeasterly and southeasterly along said boundary line to a point formed by the junction of the center line of Franklin avenue; thence northeasterly along the center line of Franklin avenue to the place of beginning. Comprises the ninth ward, part of the eleventh ward and part of the twenty-second ward of the city of Brooklyn; 41,461 inhabitants excluding aliens.

Twelfth district.—Beginning at a point on the Gowanus canal formed by the junction of a line drawn in continuation of the center line of Prospect avenue; thence southeasterly along Prospect avenue to the center line of Sixth avenue; thence southwesterly to the center of Twenty-third street; thence southeasterly to the center of Seventh avenue; thence northeasterly to the cen-

ter of Twentieth street; thence southeasterly along the southerly side of Twentieth street to a point distant one hundred feet northwesterly from the corner formed by the intersection of the southerly side of Twentieth street with the westerly side of Ninth avenue; thence southwesterly on a line parallel with and distant one hundred feet from the westerly side of Ninth avenue to the northerly line of Twenty-first street; thence southeasterly along the northerly line of Twenty-first street to the westerly line of Ninth avenue and thence northeasterly along the westerly line of Ninth avenue to the southerly side of Twentieth street; thence southeasterly along the southerly side of Twentieth street to the westerly line of Tenth avenue; thence southwesterly along the westerly line of Tenth avenue to the southerly side of Twenty-second street, as laid down on the commissioners' map of the city of Brooklyn; thence southeasterly along the southerly side of Twenty-second street, as so laid down, to the line separating the former town of Flatbush from the city of Brooklyn; thence along said boundary line in all its directions to the center-line of Flatbush avenue; thence northwesterly along Flatbush avenue to a point on the Plaza opposite the center of Ninth avenue; thence southwesterly along the center of Ninth avenue to the center of Carroll street; thence northwesterly to the center of Seventh avenue; thence southwesterly to the center of Garfield place; thence northwesterly to the center of Fourth avenue; thence southwesterly to the center of First street; thence northwesterly to the center of Second avenue; thence southwesterly to the center line of the Gowanus canal; thence southwesterly along the Gowanus canal to the place of beginning. Comprises part of twenty-second ward and part of former eighth ward of the city of Brooklyn; 40,682 inhabitants excluding aliens.

* *Thirteenth district*.—Beginning at a point formed by the junction of the centre line of Ten Eyck street with the centre line of Bushwick avenue, running thence northerly along the centre line of Bushwick avenue to its junction with the centre line of North Second street; thence westerly to its junction with the centre line of Humboldt street; thence northerly to its junction with the centre line of Richardson street; thence westerly to its junction with the centre line of Meeker avenue; thence northeasterly along the centre line of Meeker avenue to its junction with the boundary line between the counties of Kings and Queens; thence along said boundary line to its point of junction with the centre line of

* Thus reapportioned by order of court, Sept. 23, 1895.

ail street; thence southwesterly to its junction with the center line of Colyer street; thence westerly along the center line of Colyer street to its point of junction with the center line of Oakland street; thence northerly to the center line of Greenpoint venue; thence westerly to its point of junction with the center line of Manhattan avenue; thence northerly to its junction with the center line of Kent street; thence westerly to its junction with the center line of Franklin street; thence southerly to its junction with the center line of Noble street; thence easterly to its junction with the center line of Manhattan avenue; thence southerly to its junction with the center line of Norman avenue; thence southwesterly to its junction with the center line of Banker street and Wythe avenue; thence southwesterly along the center line of Wythe avenue to its intersection with the center line of North Fourteenth street; thence southeasterly to its junction with the center line of Driggs avenue; thence southwesterly to its junction with the center line of Union avenue; thence southerly to its junction with the center line of Grand street; thence westerly to its junction with the center line of Hooper street; thence southerly along the center line of Hooper street to the center line of South First street; thence easterly along the center line of South First street and Maujer street to its junction with the center line of Leonard street; thence southerly to its junction with the center line of Ten Eyck street; thence easterly along the center line of Ten Eyck street to the place of beginning. Comprises part of the seventeenth ward and part of the fifteenth ward of the city of Brooklyn; 45,198 inhabitants, excluding aliens.

**Fourteenth district.*—Beginning at a point on the boundary line of the county of Kings, on the East river, opposite the center of Grand street, running thence easterly along the center of Grand street to its junction with the center line of Haveney street; thence northerly to its junction with the center line of North Second street; thence easterly to its junction with the center line of Marcy avenue; thence southerly to its junction with the center line of Ainslie street; thence easterly to its junction with the center line of Rodney street; thence northerly to its junction with the center line of North Second street; thence easterly to its junction with the center line of Union avenue; thence northerly to its junction with the center line of Driggs street; thence northerly to its junction with the center line of North Fourteenth street; thence northwesterly to its junction with the center line of Wythe avenue; thence northerly to its junction with the center lines of Banker street and Norman avenue; thence northeasterly along the center line of Norman avenue to its junction with the center line of Manhattan avenue; thence northerly to its junction with the center line of Noble

* Thus reapportioned by order of court, September 23, 1906.

street; thence westerly to its junction with the center line of Franklin street; thence northerly to its junction with the center line of Kent street; thence easterly to its junction with the center line of Manhattan avenue; thence southerly to its junction with the center line of Greenpoint avenue; thence easterly to its junction with the center line of Oakland street; thence southerly to its junction with the center line of Colyer street; thence easterly along the center line of Colyer street to its junction with the center of Vail street; thence along the center line of Vail street to its point of junction with the boundary line separating the counties of Kings and Queens; thence along said boundary line in all its directions to its junction with the boundary line of the county of Kings on the East river; thence southerly along said boundary line to the place of beginning. Comprises part of the fourteenth ward and part of the seventeenth ward of the city of Brooklyn; 45,631 inhabitants, excluding aliens.

* *Fifteenth district.*—Beginning at a point formed by the junction of the centre line of Rodney street with the centre line of Broadway, running thence southeasterly along Broadway to its intersection by the centre line of Flushing avenue; thence easterly to its junction with the centre line of Flushing avenue; thence easterly to its junction with the centre line of Bushwick avenue; thence northerly along the centre line of Bushwick avenue or road, as the same was originally laid down on the commissioners' map of the town of Bushwick, to its point of junction with the centre line of Ten Eyck street; thence westerly to its intersection by the centre line of Leonard street; thence northerly to its junction with the centre line of Mauger street; thence northerly along the centre line of Mauger street and South First street to its junction with the centre line of Hooper street; thence northerly to its junction with the center line of Grand street; thence easterly to its junction with the centre line of Union avenue; thence northerly to its junction with the centre line of North Second street; thence westerly to its junction with the centre line of Rodney street; thence southerly to its junction with the centre line of Ainslie street; thence westerly to its junction with the centre line of Marcy avenue; thence northerly to its junction with the centre line of North Second street; thence westerly to its junction with the centre line of Havemeyer street; thence

* Thus reapportioned by order of court, Aug. 5, 1895.

southerly to its junction with the centre line of Grand street ; thence easterly to its junction with the centre of Rodney street ; thence southerly along the centre line of Rodney street to the place of beginning. The said fifteenth assembly district hereinbefore described comprises the sixteenth ward, part of the fifteenth ward, and part of the fourteenth ward of the city of Brooklyn ; 45,759 inhabitants excluding aliens.

Sixteenth district.—Beginning at a point formed by the junction of the centre lines of Lafayette and Stuyvesant avenues ; running thence easterly along the centre of Lafayette avenue to its intersection by the centre line of Broadway ; thence southeasterly along the centre of Broadway to the boundary line between the city of Brooklyn and the former town of New Lots ; thence southerly along said boundary line to its intersection by the centre line of Atlantic avenue ; thence westerly to the centre of Schenectady avenue ; thence northerly to the centre of Fulton street ; thence easterly to the centre of Stuyvesant avenue ; thence northerly to the place of beginning. Comprises the twenty-fifth ward and part of the twenty-third ward, defined by a line along the center of Stuyvesant and Schenectady avenues of the city of Brooklyn ; 37,981 inhabitants excluding aliens.

Seventeenth district.—Beginning at a point formed by the junction of the center lines of Lafayette and Stuyvesant avenues ; running thence southerly to the center of Bainbridge street ; thence westerly to the center of Sumner avenue ; thence northerly to the center of McDonough street ; thence westerly to the center of Tompkins avenue ; thence southerly to the center of Fulton street ; thence westerly to the center of New York avenue ; thence southerly to the center of Atlantic avenue ; thence westerly to the center of Franklin avenue ; thence northerly to the center of Breevoort place ; thence easterly to the center of Bedford avenue ; thence northerly to the center of Lafayette avenue ; thence easterly along the center of Lafayette avenue to the place of beginning. Comprises the twenty-third ward, election districts one to twenty of the former twenty-third ward, and districts one, part of four, and all of fifth, sixth, seventh, fifteenth, sixteenth, seventeenth and eighteenth of the former twenty-fifth ward of the city of Brooklyn ; 37,641 inhabitants excluding aliens.

Eighteenth district.—Beginning at a point formed by the junction of Franklin and Atlantic avenues ; running thence easterly along the center of Atlantic avenue, to the center of New York

avenue; thence northerly to the center of Fulton street; thence easterly to the center of Tompkins avenue; thence northerly to the center of McDonough street; thence easterly to the center of Sumner avenue; thence southerly to the center of Bainbridge street; thence easterly to the center of Stuyvesant avenue; thence southerly to the center of Fulton street; thence westerly to the center of Schenectady avenue; thence southerly to the center of Atlantic avenue; thence easterly to the boundary line between the city of Brooklyn and the former town of New Lots; thence westerly along said boundary line to its point of junction with the boundary line of the former town of Flatbush; thence southerly along said boundary line to its junction with the boundary line of the town of Flatlands; thence northeasterly and again easterly and southerly in all its directions along the boundary line of the town of Flatlands; thence southerly and northerly along the boundary line separating the town of Flatlands and the former town of New Lots, continuing the said line in all its directions along the boundary line of the county of Kings formed by or on the waters of Jamaica bay and Atlantic ocean, to its meeting with the boundary line separating the former towns of Flatbush and Gravesend; thence along said boundary line in all its directions to the boundary line separating the former towns of Flatbush and New Utrecht; thence along said boundary line in all its directions to its junction with the boundary line separating the said former town of Flatbush from the city of Brooklyn; thence along said line in all its directions to its intersection by the center line of Franklin avenue; thence to the place of beginning. Comprises the twenty-fourth and twenty-ninth wards, the town of Flatlands and part of twenty-third ward of the city of Brooklyn; 37,504 inhabitants excluding aliens.

Nineteenth district.— Beginning at the center of the intersection of Richardson street and Meeker avenue; running thence in a northeasterly direction along the center of Meeker avenue to the boundary line between the county of Kings and the county of Queens; thence southerly in all its directions along said boundary line to its junction with the center line of Jefferson street; thence westerly to the center of Evergreen avenue; thence southerly to the center of Troutman street; thence northeasterly to the center of Central avenue; thence southeasterly to the center of Cedar street; thence westerly to the center of Bushwick avenue; thence southeasterly to the intersection of the center of Lafayette avenue;

thence westerly to the center of Broadway; thence northwesterly to the center of Flushing avenue; thence easterly to the intersection of Flushing and Bushwick avenues; thence in a northerly, northwesterly, northeasterly, and again northwesterly direction along the center of Bushwick avenue to the center of the intersection of Bushwick avenue and North Second street; thence westerly along the center of North Second street to Humboldt street; thence northerly along the center of Humboldt street to the center of the intersection of Humboldt and Richardson streets; thence northwesterly along the center of Richardson street to the place of beginning. Comprises the eighteenth ward and parts of the twenty-seventh and twenty-eighth wards of the city of Brooklyn; 39,538 inhabitants excluding aliens.

Twentieth district.—Beginning at a point formed by the junction of the center lines of Broadway and Cooper avenue; running thence northeasterly to the center of Evergreen avenue; thence northwesterly to the center of Hancock street; thence northeasterly to the center of Central avenue; thence northwesterly to the center of Linden street; thence northeasterly to the center of Knickerbocker avenue; thence southeasterly to the center of Putnam avenue; thence northeasterly to its junction with the boundary line of the county of Kings and the county of Queens; thence northerly to the center of Jefferson street; thence southwesterly to the center of Evergreen avenue; thence southeasterly to the center of Troutman street; thence northeasterly to the center of Central avenue; thence southeasterly to the center of Cedar street; thence southwesterly to the center of Bushwick avenue; thence southeasterly to the center of Lafayette avenue; thence southwesterly to the center of Broadway; thence southeasterly to the place of beginning. Comprises part of the twenty-eighth ward and part of the twenty-seventh ward in the city of Brooklyn; 38,836 inhabitants excluding aliens.

Twenty-first district.—Beginning at a point formed by the junction of the center lines of Broadway and Cooper avenue; running thence northeasterly to the center of Evergreen avenue; thence northwesterly to the center of Hancock street; thence northeasterly to the center of Central avenue; thence northwesterly to the center of Linden street; thence northeasterly to the center of Knickerbocker avenue; thence southeasterly to the center of Putnam avenue; thence along the center line of Putnam avenue to its point of junction with the boundary line between the county of

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Kings and the county of Queens; running thence southeasterly along the said boundary line and again northeasterly along said boundary line, and again southerly along said boundary line, and again along the southerly boundary line of the former town of New Lots to its junction with the boundary line of the town of Flatlands; thence northerly, westerly and again northerly and westerly, and southwesterly, and again northerly to the junction of said boundary line with the boundary line of the former town of Flatbush; thence northeasterly along said boundary line to its intersection by the center line of Broadway; thence northwesterly along the center line of Broadway to the place of beginning. Comprises the twenty-sixth ward and part of twenty-eighth ward of the city of Brooklyn; 38,738 inhabitants excluding aliens.

LEWIS COUNTY — ONE DISTRICT.

LIVINGSTON COUNTY — ONE DISTRICT.

MADISON COUNTY — ONE DISTRICT.

MONROE COUNTY.

First district.— Towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush, Webster and sixteenth, seventeenth and eighteenth wards of the city of Rochester; 44,583 inhabitants excluding aliens.

Second district.— The fourth, sixth, seventh, eighth, twelfth, thirteenth and fourteenth wards of the city of Rochester; 45,414 inhabitants excluding aliens.

Third district.— The first, second, third, fifth, ninth, tenth and eleventh wards of the city of Rochester; 44,733 inhabitants excluding aliens.

Fourth district.— Towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland and the fifteenth, nineteenth and twentieth wards of the city of Rochester; 45,730 inhabitants excluding aliens.

MONTGOMERY COUNTY — ONE DISTRICT.

NEW YORK COUNTY.

First district.— That portion of the tenth senate district within and bounded by a line beginning at the Hudson or North river and Canal street; running thence along Canal street to Hudson street, to Dominick street, to Varick street, to Broome street, to Sullivan street, to Spring street, to Broadway, to Fulton street, to

William street, to Wall street, to Broadway, to Whitehall street, to the East river and East and Hudson or North river, to the place of beginning, and also Governor's and Bedloe's island; also Ellis island; 39,740 inhabitants, excluding aliens.

Second district.— That portion of the tenth senate district within and bounded by a line beginning at the East river and Whitehall street; running thence along Whitehall street to Broadway, to Wall street, to William street, to Fulton street, to Broadway, to Canal street, to the Bowery, to Division street, to Market street, to Monroe street, to Catharine street, to the East river, to the place of beginning; 39,785 inhabitants, excluding aliens.

Third district.— That portion of the thirteenth senate district within and bounded by a line beginning at the intersection of Broadway and West Third street and running along West Third street to Sixth avenue, to Cornelia street, to Bleecker street, to Grove street, to Hudson street, to Barrow street, to Hudson or North river, to Canal street, to Hudson street, to Dominick street, to Varick street, to Broome street, to Sullivan street, to Spring street, to Broadway and to the place of beginning. Citizen population, 38,333. (Thus reapportioned by order of court, September 30, 1895.)

Fourth district.— That portion of the tenth senate district within and bounded by a line beginning at the East river and Catharine street, and running thence along Catharine street to Monroe street, to Market street, to Division street, to Grand street, to Jackson street, to the East river, to the place of beginning; 40,427 inhabitants, excluding aliens.

Fifth district.— That portion of the thirteenth senate district within and bounded by a line beginning at the intersection of Third avenue and East Fourteenth street, and running along East Fourteenth street to Sixth avenue, to Fifteenth street, to Seventh avenue, to Thirteenth street, to Horatio street, to Eighth avenue, to Hudson street, to Grove street, to Bleecker street, to Cornelia street, to Sixth avenue, to West Third street, to Broadway, to West Fourth street, to East Fourth street, to Third avenue, to the place of beginning. Citizen population, 38,246. (Thus reapportioned by order of court, September 30, 1895.)

Sixth district.— That portion of the eleventh senate district within and bounded by a line beginning at Canal street and Broadway, and running thence along Broadway to East Fourth street, to the Bowery, to Third avenue, to St. Mark's place or Eighth street, to Second avenue, to Second street, to First avenue, to Houston street, to Eldridge street, to Stanton street, to Chrystie street, to Division street, to the Bowery, to Canal street, to the place of beginning; 34,410 inhabitants, excluding aliens.

Seventh district.—That portion of the thirteenth senate district within and bounded by a line beginning at the intersection of Seventh avenue and West Nineteenth street, and running thence along Seventh avenue to West Thirteenth street, to Horatio street, to Eighth avenue to Hudson street, to Barrow street, to the Hudson or North river, to West Twentieth street, to Eighth avenue, to West Nineteenth street, to the place of beginning. Citizen population, 38,881. (Thus reapportioned by order of court, September 30, 1895.)

Eighth district.—That portion of the eleventh senate district within and bounded by a line beginning at Division and Chrystie streets, and running thence along Chrystie street to Stanton street, to Eldridge street, to Houston street, to Ludlow street, to Broome street, to Norfolk street, to Division street, to the place of beginning; 38,781 inhabitants excluding aliens.

Ninth district.—That portion of the sixteenth senate district within and bounded by a line beginning at the Hudson or North river and West Twentieth street, and running thence along West Twentieth street to Eighth avenue, to West Nineteenth street, to Seventh avenue, to West Thirtieth street, to the Hudson or North river; 39,495 inhabitants excluding aliens.

Tenth district.—That portion of the eleventh senate district within and bounded by a line beginning at Second street and Second avenue, and running thence along Second avenue to St. Mark's place or Eighth street to Avenue A, to Seventh street, to Avenue B, to Clinton street, to Rivington street, to Norfolk street, to Broome street, to Ludlow street, to Houston street, to First avenue, to Second street, to the place of beginning; 39,108 inhabitants excluding aliens.

Eleventh district.—That portion of the sixteenth senate district within and bounded by a line beginning at Seventh avenue and West Thirteenth street, and running thence along Seventh avenue to West Thirty-seventh street, to Eighth avenue, to West Thirty-eighth street, to Tenth avenue, to West Thirty-sixth street, to Hudson or North river, to West Thirtieth street, to the place of beginning; 39,868 inhabitants excluding aliens.

Twelfth district.—That portion of the twelfth senate district within and bounded by a line beginning at the East river and Jackson street, and running thence along Jackson street to Grand street, to Division street, to Norfolk street, to Rivington street, to Cannon street, to Stanton street, to the East river, to the place of beginning; 41,871 inhabitants excluding aliens.

Thirteenth district.— That portion of the sixteenth senate district within and bounded by a line beginning at the Hudson or North river and West Thirty-sixth streets, and running thence along West Thirty-sixth street to Tenth avenue, to West Thirty-eighth street, to Eighth avenue, to West Thirty-seventh street, to Seventh avenue, to West Fortieth street, to Eighth avenue, to West Forty-third street, to Tenth avenue, to West Forty-sixth street, to the Hudson or North river, to the place of beginning; 39,554 inhabitants excluding aliens.

Fourteenth district.— That portion of the twelfth senate district within and bounded by a line beginning at the East river and East Eleventh street, and running thence along East Eleventh street to Avenue C, to Seventh street, to Avenue A, to St. Mark's place or Eighth street, to Third avenue, to Fourteenth street, to the East river, to the place of beginning; 40,697 inhabitants excluding aliens.

Fifteenth district.— That portion of the seventeenth senate district within and bounded by a line beginning at the Hudson or North river and West Forty-sixth street, and running thence along West Forty-sixth street to Tenth avenue, to West Forty-third street, to Eighth avenue, to West Fifty-third street, to Ninth avenue, to West Fiftieth street, to Tenth avenue, to West Forty-ninth street, to the Hudson or North river, to the place of beginning; 39,217 inhabitants excluding aliens.

Sixteenth district.— That portion of the twelfth senate district within and bounded by a line beginning at the East river and Stanton street, and running thence along Stanton street to Cannon street, to Rivington street, to Clinton street, to Avenue B, to Seventh street, to Avenue C, to East Eleventh street, to the East river, to the place of beginning; 41,264 inhabitants excluding aliens.

Seventeenth district.— That portion of the seventeenth senate district within and bounded by a line beginning at the Hudson or North river and West Forty-ninth street, and running thence along West Forty-ninth street to Tenth avenue, to West Fiftieth street, to Ninth avenue, to West Fifty-third street, to Eighth avenue, to West Sixty-first street, to Ninth or Columbus avenue, to West Sixtieth street, to the Hudson or North river, to the place of beginning; 39,086 inhabitants excluding aliens.

Eighteenth district.— That portion of the fourteenth senate district within and bounded by a line beginning at the East river

and East Fourteenth street, and running thence along East Fourteenth street to Irving place, to East Nineteenth street, to Third avenue, to East Twenty-third street, to Second avenue, to East Twenty-fifth street, to First avenue, to East Twenty-sixth street, to the East river, to the place of beginning; 40,051 inhabitants excluding aliens.

Nineteenth district.—That portion of the seventeenth senate district within and bounded by a line beginning at the Hudson or North river and West Sixtieth street, and running thence along West Sixtieth street to Ninth or Columbus avenue, to West Sixty-first street, to Eighth avenue, to West Eighty-first street, to Ninth or Columbus avenue, to West Eighty-sixth street, to Tenth or Amsterdam avenue, to West Eighty-ninth street, to the Hudson or North river, to the place of beginning; 39,120 inhabitants excluding aliens.

Twentieth district.—That portion of the fourteenth senate district within and bounded by a line beginning at the East river and East Twenty-sixth street, and running thence along East Twenty-sixth street to First avenue, to East Twenty-fifth street, to Second avenue, to East Twenty-third street, to Lexington avenue, to East Thirty-ninth street, to Third avenue, to East Thirty-seventh street, to Second avenue, to East Thirty-eighth street, to the East river, to the place of beginning; 40,242 inhabitants excluding aliens.

Twenty-first district.—That portion of the nineteenth senate district within and bounded by a line beginning at the Hudson or North river and West Eighty-ninth street, and running thence along West Eighty-ninth street to Tenth or Amsterdam avenue, to West Eighty-sixth street, to Ninth or Columbus avenue, to West Eighty-first street, to Eighth avenue, to Ninety-seventh street and the transverse road across Central Park at Ninety-seventh street, to Fifth avenue, to West One Hundred and Tenth street, to Seventh avenue, to West One Hundred and Twentieth street, to Western boulevard, to West One Hundred and Nineteenth street, to the Hudson or North river, to the place of beginning; 39,721 inhabitants excluding aliens.

Twenty-second district.—That portion of the fourteenth senate district within and bounded by a line beginning at the East river and East Thirty-eighth street, and running thence along East Thirty-eighth street to Second avenue, to East Thirty-seventh

street, to Third avenue, to East Thirty-ninth street, to Lexington avenue, to East Fifty-third street, to Third avenue, to East Fifty-second street, to the East river, to the place of beginning; 39,514 inhabitants excluding aliens.

Twenty-third district.—That portion of the nineteenth senate district within and bounded by a line beginning at the Hudson or North river and West One Hundred and Nineteenth street, and running thence along the Hudson or North river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the Harlem river to the north end of Fifth avenue; thence along Fifth avenue to West One Hundred and Thirty-fourth street, to Eighth avenue, to West One Hundred and Twentieth street, to Western boulevard, to West One Hundred and Nineteenth street, to the place of beginning; 39,114 inhabitants excluding aliens.

Twenty-fourth district.—That portion of the eighteenth senate district within and bounded by a line beginning at the East river and East Fifty-second street, and running thence along East Fifty-second street to Third avenue, to East Fifty-third street, to Lexington avenue, to East Sixty-fourth street, to Third avenue, to East Sixty-fifth street, to the East river, to the place of beginning, and also Blackwell's island; 39,463 inhabitants excluding aliens.

Twenty-fifth district.—That portion of the fifteenth senate district within and bounded by a line beginning at West Fifteenth street and Seventh avenue, and running thence along Seventh avenue to West Thirty-sixth street, to Lexington avenue, to East Twenty-third street, to Third avenue, to East Nineteenth street, to Irving place, to East Fourteenth street, to Sixth avenue, to West Fourteenth street, to the place of beginning; 39,932 inhabitants excluding aliens.

Twenty-sixth district.—That portion of the eighteenth senate district within and bounded by a line beginning at the East river and East Sixty-fifth street, and running thence along East Sixty-fifth street to Third avenue, to East Sixty-fourth street, to Lexington avenue, to East Seventy-fifth street, to Third avenue, to East Seventy-sixth street, to the East river, to the place of beginning; 39,383 inhabitants excluding aliens.

Twenty-seventh district.—That portion of the fifteenth senate district within and bounded by a line beginning at West Thirty-sixth street and Seventh avenue, and running thence along Seventh avenue to West Fortieth street, to Eighth avenue, to West Fifty-

third street, to Fifth avenue, to East Fifty-fourth street, to Lexington avenue, to East Thirty-sixth street, to West Thirty-sixth street, to the place of beginning; 40,258 inhabitants excluding aliens.

Twenty-eighth district.—That portion of the eighteenth senate district within and bounded by a line beginning at the East river and East Seventy-sixth street, and running thence along East Seventy-sixth street to Third avenue, to East Seventy-fifth street, to Lexington avenue, to East Eighty-fourth street, to Second avenue, to East Eighty-third street, to the East river, to the place of beginning; 39,727 inhabitants excluding aliens.

Twenty-ninth district.—That portion of the fifteenth senate district within and bounded by a line beginning at East Fifty-fourth street and Lexington avenue, and running thence along Lexington avenue to East Ninety-sixth street, to Fifth avenue, to East Ninety-seventh street and the transverse road across Central park at Ninety-seventh street, to Eighth avenue, to West Fifty-third street, to Fifth avenue, to East Fifty-fourth street, to the place of beginning; 39,738 inhabitants excluding aliens.

Thirtieth district.—That portion of the twentieth senate district within and bounded by a line beginning at the East river and East Eighty-third street, and running thence along East Eighty-third street to Second avenue, to East Eighty-fourth street, to Lexington avenue, to East Ninety-second street, to Third avenue, to East Ninety-fourth street, to the East river, to the place of beginning; 39,494 inhabitants excluding aliens.

Thirty-first district.—That portion of the nineteenth senate district within and bounded by a line beginning at West One Hundred and Tenth street and Seventh avenue, and running thence along Seventh avenue to West One Hundred and Twentieth street, to Eighth avenue, to West One Hundred and Thirty-fourth street, to Fifth avenue, to East One Hundred and Twenty-ninth street, to Fourth or Park avenue, to East One Hundred and Tenth street, to West One Hundred and Tenth street, to the place of beginning; 39,142 inhabitants excluding aliens.

Thirty-second district.—That portion of the twentieth senate district within and bounded by a line beginning at the East river and East Ninety-fourth street, and running thence along East Ninety-fourth street to Third avenue, to East Ninety-second street, to Lexington avenue, to East Ninety-sixth street, to Fifth avenue, to East One Hundred and Tenth street, to Madison avenue, to East One Hundred and Eighth street, to the Harlem river,

to the place of beginning, and also Ward's island; 39,384 inhabitants excluding aliens.

Thirty-third district.— That portion of the twentieth senate district within and bounded by a line beginning at the Harlem river and East One Hundred and Eighth street, and running thence along East One Hundred and Eighth street to Madison avenue, to East One Hundred and Tenth street, to Fourth or Park avenue, to East One Hundred and Nineteenth street, to the Harlem river, to the place of beginning, and also Randall's island; 38,751 inhabitants excluding aliens.

Thirty-fourth district.— That portion of the twenty-first senate district within and bounded by a line beginning at the Harlem river and East One Hundred and Nineteenth street, and running thence along East One Hundred and Nineteenth street to Fourth or Park avenue, to East One Hundred and Twenty-ninth street, to Fifth avenue, to the Harlem river, to the place of beginning, together with that portion of the twenty-third ward of the city of New York within and bounded by a line beginning at the Harlem river and East One Hundred and Forty-ninth street, and running thence along East One Hundred and Forty-ninth street to Railroad avenue, to East One Hundred and Forty-sixth street, to Third avenue, to East One Hundred and Forty-ninth street, to Bungay street, to the East river or Long Island sound, to Bronx Kill, to Harlem river, to the place of beginning, and also North Brothers' island; 51,322 inhabitants excluding aliens.

Thirty-fifth district.— That portion of the twenty-third and twenty-fourth wards of the city and county of New York lying within the twenty-first senate district, not hereinbefore bounded and described; 50,642 inhabitants excluding aliens.

NIAGARA COUNTY.

First district.— City of Lockport and towns of Lockport, Cambria, Pendleton, Royalton and Wheatfield; 34,247 inhabitants excluding aliens.

Second district.— City of Niagara Falls, and towns of Niagara, Lewiston, Porter, Wilson, Newfane, Somerset and Hartland; 24,892 inhabitants excluding aliens.

ONEIDA COUNTY.

First district.— Town and city of Utica; 42,820 inhabitants, excluding aliens.

358 POLITICAL DIVISIONS OF STATES, COUNTIES AND TOWNS.

Second district.—Towns of Augusta, Bridgewater, Kirkland, Marshall, New Hartford, Paris, Sangerfield, Vernon, Verona, Westmoreland and Whitestone; 34,158 inhabitants excluding aliens.

Third district.—Towns of Annsville, Ava, Boonville, Camden, Deerfield, Florence, Floyd, Forestport, Lee, Marcy, Remsen, town and city of Rome, Steuben, Trenton, Vienna and Western; 40,056 inhabitants excluding aliens.

ONONDAGA COUNTY.

First district.—Towns of Clay, Lysander, Van Buren, Elbridge, Camillus, Geddes, Skaneateles, Marcellus, Onondaga, Otisco, Spafford, Tully and La Fayette; 36,002 inhabitants excluding aliens.

Second district.—Towns of Cicero, Salina, De Witt, Manlius, Pompey and Fabius and the first, second and sixteenth wards of the city of Syracuse; 35,602 inhabitants excluding aliens.

Third district.—The third, fourth, seventh, eighth, twelfth, fourteenth and fifteenth wards of the city of Syracuse; 24,829 inhabitants excluding aliens.

Fourth district.—The fifth, sixth, ninth, tenth, eleventh, thirteenth, seventeenth, eighteenth and nineteenth wards of the city of Syracuse; 35,291 inhabitants excluding aliens.

ONTARIO COUNTY — ONE DISTRICT.

ORANGE COUNTY.

First district.—City of Newburgh, Cornwall, New Windsor, Highlands, Montgomery, Monroe, Blooming Grove, Crawford and Hamptonburg; 47,082 inhabitants excluding aliens.

Second district.—City of Middletown, towns of Deerpark, Greenville, Mount Hope, Waywayanda, Minisink, Goshen, Wallkill, Chester, Warwick, Woodbury and Tuxedo; 46,109 inhabitants excluding aliens.

ORLEANS COUNTY — ONE DISTRICT.

OSWEGO COUNTY.

First district.—First, third, fifth and seventh wards of the city of Oswego, towns of Oswego, Hannibal, Granby, Volney, Schroepel, Palermo, Hastings and West Monroe; 35,440 inhabitants excluding aliens.

Second district.—Second, fourth, sixth and eighth wards of the city of Oswego, towns of Scriba, New Haven, Mexico, Richland, Sandy Creek, Boylston, Redfield, Orwell, Albion, Williamstown, Parish, Amboy and Constantia; 34,583 inhabitants excluding aliens.

OTSEGO COUNTY — ONE DISTRICT.

PUTNAM COUNTY — ONE DISTRICT.

QUEENS COUNTY.

First district.—City of Long Island City and town of Newtown; 46,195 inhabitants excluding aliens.

Second district.—Towns of Flushing and Jamaica; 34,030 inhabitants excluding aliens.

Third district.—Towns of Hempstead, Oyster Bay and North Hempstead; 43,590 inhabitants excluding aliens.

RENSSELAER COUNTY.

First district.—Towns of Lansingburgh, Schaghticoke, Pittstown and Hoosick, and the tenth and thirteenth wards of the city of Troy; 38,610 inhabitants excluding aliens.

Second district.—The first, second, third, fourth, sixth, seventh, eighth, ninth, eleventh and twelfth wards of the city of Troy; 41,903 inhabitants excluding aliens.

Third district.—Towns of Berlin, Brunswick, Grafton, Petersburg, Poestenkill, Sandlake, Stephentown, Nassau, North Greenbush, East Greenbush, Greenbush, Schodack, and the fifth ward of the city of Troy; 39,810 inhabitants excluding aliens.

RICHMOND COUNTY — ONE DISTRICT.

ROCKLAND COUNTY — ONE DISTRICT.

ST. LAWRENCE COUNTY.

First district.—Town of Oswegatchie, including the city of Ogdensburg, and the four wards thereof, and the towns of Waddington, Madrid, Lisbon, DePeyster, DeKalb, Morristown, Macomb, Hammond, Rossie, Gouverneur, Fowler, Edwards, Pitcairn and Fine; 40,682 inhabitants excluding aliens.

Second district.—Towns of Canton, Potsdam, Stockholm, Norfolk, Louisville, Massena, Brasher, Lawrence, Parishville, Hopkinton,

360 POLITICAL DIVISIONS OF STATES, COUNTIES AND TOWNS.

Colton, Clifton, Clare, Pierrepont, Russell and Hermon; 39,996 inhabitants excluding aliens.

SARATOGA COUNTY — ONE DISTRICT.

SCHENECTADY COUNTY — ONE DISTRICT.

SCHOHARIE COUNTY — ONE DISTRICT.

SCHUYLER COUNTY — ONE DISTRICT.

SENECA COUNTY — ONE DISTRICT.

STEBEN COUNTY.

First district.—Towns of Addison, Bath, Bradford, Campbell, Caton, Corning, Erwin, Hornby, Lindley, Prattsburgh, Pultney, Thurston, Tuscarora, Urbana, Wayne and Wheeler, and the city of Corning; 40,157 inhabitants excluding aliens.

Second district.—Towns of Avoca, Cameron, Canisteo, Dansville, Fremont, Greenwood, Hartsville, Cohocton, Hornellsville, Howard, Jasper, Rathbone, Troupsburgh, Wayland, West Union and Woodhull, and the city of Hornellsville; 41,208 inhabitants excluding aliens.

SUFFOLK COUNTY.

First district.—Towns of Brookhaven, Easthampton, Riverhead, Shelter Island, Southold and Southampton.

Second district.—Towns of Babylon, Islip, Huntington and Smithtown.

SULLIVAN COUNTY — ONE DISTRICT.

TIOGA COUNTY — ONE DISTRICT.

TOMPKINS COUNTY — ONE DISTRICT.

ULSTER COUNTY.

First district.—City of Kingston, towns of Kingston, Hurley, Saugerties, Shandaken, Ulster and Woodstock; 42,609 inhabitants excluding aliens.

Second district.—Towns of Denning, Esopus, Gardiner, Hardenburgh, Lloyd, Marbletown, Marlborough, New Paltz, Olive, Plattekill, Rochester, Rosendale, Shawangunk and Wawarsing; 44,911 inhabitants excluding aliens.

WARREN COUNTY — ONE DISTRICT.

WASHINGTON COUNTY — ONE DISTRICT.

WAYNE COUNTY — ONE DISTRICT.

WESTCHESTER COUNTY.

First district.—Towns of Yonkers, Mount Vernon, Eastchester; 41,864 inhabitants, excluding aliens. (Reapportioned by supervisors, by order of court, October 7, 1895.)

Second district.—Towns of Greenburgh, Mamaroneck, New Rochelle, Pelham, Rye, Westchester, White Plains, Scarsdale, Harrison; 45,792 inhabitants, excluding aliens. (Reapportioned by supervisors, by order of court, October 7, 1895.)

Third district.—Towns of Bedford, Cortland, Lewisboro, New Castle, North Salem, Ossining, Poundridge, Somers, Yorktown, Mount Pleasant, North Castle; 40,701 inhabitants, excluding aliens. (Reapportioned by supervisors, by order of court, October 7, 1895.)

WYOMING COUNTY — ONE DISTRICT.

YATES COUNTY — ONE DISTRICT.

CONGRESSIONAL DISTRICTS OF THE STATE OF NEW YORK.

[AS ESTABLISHED BY CHAP. 591, LAWS OF 1901.*]

First district.—The counties of Suffolk, Nassau and the third, fourth and fifth wards of the borough of Queens, county of Queens, shall compose the first district.

Second district.—The fourteenth, fifteenth, sixteenth, seventeenth and eighteenth wards of the borough of Brooklyn in the county of Kings and also that portion of the twenty-seventh ward bounded on the north by the line dividing Kings and Queens counties from Flushing avenue to Jefferson street, Jefferson street south to Evergreen avenue, west to Noll street, south to Bushwick avenue, east to Arion place, south to Broadway, west to Flushing avenue, and north to point of beginning, shall compose the second district.

Third district.—The thirteenth, nineteenth and twenty-first wards of the borough of Brooklyn in the county of Kings and also that portion of the twenty-seventh ward bounded on the north by the line dividing Kings and Queens counties from Jefferson street to Stockholm street, south to Bushwick avenue, east to Kosciusko street, south to Broadway, west to Arion place, north to Bushwick avenue, west to Noll street, north to Evergreen avenue, east to Jefferson street, and north to point of beginning; and also that part of the twenty-third ward bounded on the north by Lafayette avenue, from Bedford avenue to Stuyvesant avenue,

* The words "assembly district," and the word "ward" or "wards" when used in this act, are understood to refer to the assembly districts of the wards as constituted at the time of the passage of chapter 591, Laws of 1901.

south to Bainbridge street, west to Sumner avenue, north to McDonough street, west to Tompkins avenue, south to Fulton street, west to New York avenue, south to Atlantic avenue, west to Franklin avenue, north to Brevoort place, east to Bedford avenue and north to point of beginning, shall compose the third district.

Fourth district.—The twenty-sixth, twenty-eighth, thirty-first and thirty-second wards of the borough of Brooklyn in the county of Kings and also that portion of the twenty-fifth ward bounded on the north by Broadway, from Howard avenue to boundary line of the twenty-sixth ward, south to Atlantic avenue, west to Howard avenue, north to Fulton street, west to Howard avenue and north to point of beginning, shall compose the fourth district.

Fifth district.—The eighth, twenty-fourth, twenty-ninth and thirtieth wards of the borough of Brooklyn in the county of Kings and also that portion of the twenty-third ward bounded on the north by Lafayette avenue, from Stuyvesant avenue east to Reid avenue, south to Fulton street, west to Utica avenue, south to Atlantic avenue, west to New York avenue, north to Fulton street, east to Tompkins avenue, north to McDonough street, east to Sumner avenue, south to Bainbridge street, east to Stuyvesant avenue and north to the point of beginning; and also that portion of the twenty-fifth ward bounded on the north by Lafayette avenue, from Reid avenue east to Broadway, southeast to Howard avenue, south to Fulton street, east to Howard avenue, south to Atlantic avenue, west to Utica avenue, north to Fulton street, east to Reid avenue and north to the point of beginning, shall compose the fifth district.

Sixth district.—The seventh, ninth, twentieth and twenty-second wards of the borough of Brooklyn in the county of Kings and also that portion of the eleventh ward bounded on the north by Johnson street, from Bridge street east to Hudson avenue, south to Myrtle avenue, east to Navy street, south to Bolivar street, west to Hudson avenue, south to Willoughby street, east to Navy street, south to DeKalb avenue, east to South Portland avenue, south to Atlantic avenue, west to Flatbush avenue, north-west to Fulton street, west to Bridge street and north to point of beginning, shall compose the sixth district.

Seventh district.—The first, second, third, fourth, fifth, sixth, tenth and twelfth wards of the borough of Brooklyn in the county of Kings and also that portion of the eleventh ward bounded on the north by Flushing avenue, from Navy street east to North Portland avenue, across Fort Greene park to DeKalb avenue, opposite South Portland avenue, west to Navy street, north to Willoughby street, west to Hudson avenue, north to Bolivar street, east to Navy street, north to Myrtle avenue, west to Hud-

son avenue, north to Johnson street, east to Navy street and north to point of beginning, shall compose the seventh district.

Eighth district.—Richmond county, the first assembly district of the county of New York, that portion of the second assembly district of the county of New York, bounded on the north by Canal street from Broadway to the Bowery; on the south by the East river; on the east by the Bowery from Canal street to Chatham square, to Catherine street, to the East river; on the west by Whitehall street from the East river to Broadway, to Wall street, to William street, to Fulton street, to Broadway, to Canal street; the third assembly district of the county of New York; that portion of the fourth assembly district of the county of New York, bounded on the north by Monroe street from Catherine street to Mechanic alley, on the south by the East river, on the east by Mechanic alley from Monroe street to Cherry street to Market slip, to the East river; on the west by Catherine street from the East river to Monroe street; and the sixth assembly district of the county of New York, shall compose the eighth district. The boundaries of said eighth district are as follows: Staten island, known as Richmond county and that portion of New York county, bounded as follows: Beginning at Battery place and North river, north to West street, north to Barrow street and Hudson river, east to Hudson street, north to Grove street, northeast to Bleecker street, southeast to Cornelia street, northeast to Sixth avenue, south to West Third street, east to Broadway, north to East Fourth street, east to the Bowery, north to Third avenue, to Saint Mark's place, east to Second avenue, south to Second street, east to First avenue, south to East Houston street, west to Eldridge street, south to Stanton street, west to Chrystie street, south to Division street, west to northeast corner of Division street and Bowery, to the northeast corner of Chatham square and Catherine street, southeasterly to Monroe street, east to Mechanic alley, and south to Cherry street, west to Market slip, south to the East river, to the point or place of beginning.

Ninth district.—That portion of the second assembly district of the county of New York, bounded on the north by Division street from Catherine street to Market street; on the south by Monroe street from Catherine street to Market street; on the east by Market street from Division street to Monroe street; on the west by Catherine street from Division street to Monroe street; that portion of the fourth assembly district of the county of New York, bounded on the north by Division street from Market street to Montgomery street; on the south by the East river, from Market slip to Clinton street; on the east by Montgomery street from Division street to Henry street, to the southwest corner of Henry street and Montgomery street, running diagonally through the middle of said block, to the north-

east corner of Madison street and Clinton street, south to Clinton street and the East river, on the west by Market street from Division street to Monroe street, east to Mechanic alley west to Market slip and south to the East river; that portion of the eighth assembly district of the county of New York bounded as follows: on the north by Stanton street from Chrystie street to Ludlow street; on the south by Division street from Chrystie street to Norfolk street; on the east by Ludlow street from Stanton street to Broome street, east to Norfolk street, Norfolk street from Broome street to Division street; on the west by Chrystie street from Stanton street to Division street; that portion of the tenth assembly district of the county of New York, bounded on the north by Stanton street, from Ludlow street to Clinton street; on the south by Broome street from Ludlow street to Norfolk street, north to Rivington street, east to Clinton street, on the east by Clinton street, from Stanton street to Rivington street, west to Norfolk street, south to Broome street; on the west by Ludlow street from Stanton street to Broome street; that portion of the twelfth assembly district of the county of New York, bounded on the north by Rivington street, from Norfolk street to Cannon street, on the south by Division street, from Norfolk street to Pitt street, north to Grand street, east to Sheriff street, north to Broome street, east to Cannon street; on the east by Cannon street, from Rivington street to Broome street; on the west by Norfolk street, from Rivington street to Division street; that portion of the sixteenth assembly district of the county of New York, bounded on the north by Stanton street, from Clinton street to Cannon street; on the south by Rivington street, from Clinton street to Cannon street; on the east by Cannon street, from Stanton street to Rivington street; on the west by Clinton street, from Stanton street to Rivington street, shall compose the ninth district. The boundaries of said ninth district are as follows: Beginning at the East river and Market slip, north to Cherry street, east to Mechanic alley, north to Monroe street, west to Catherine street, north to Division street, east to Chrystie street, north to Stanton street, east to Cannon street, south to Broome street, west to Sheriff street, south to Grand street, west to Pitt street, south to Division street, to Montgomery street, south to southwest corner of Henry and Montgomery street, diagonally through the middle of said block to the northeast corner of Madison street and Clinton street, south to South street at East river, thence along the East river to the point or place of beginning. (*Amended by chap. 298, L. 1902.*)

Tenth district.— That portion of the fourth assembly district of the county of New York, bounded on the north by Division street from Montgomery street to Scamel street, east to Grand street, to Jackson street; on the south by the East river from

Clinton street to Montgomery street, south to the East river, the East river to Jackson slip; east by Jackson street and Jackson slip, from Grand street to the East river; on the west, by Montgomery street from Division street to the northeast corner of Henry street and Montgomery street, diagonally through the middle of said block to the southwest corner of Clinton street and Madison street, south to Clinton street and the East river; that portion of the eighth assembly district of the county of New York, bounded on the north by East Houston street, from Eldridge street to Ludlow street; on the south by Stanton street from Eldridge street to Ludlow street; on the east by Ludlow street from East Houston street to Stanton street; on the west by Eldridge street from East Houston street to Stanton street; that portion of the tenth assembly district of the county of New York, bounded on the north by Saint Mark's place from Second avenue to Avenue A, south to Seventh street, east to Avenue B; on the south by Second street, from Second avenue, to First avenue, south to East Houston street, east to Ludlow street, south to Stanton street, east to Clinton street; on the east by Avenue A from Saint Mark's place to Seventh street, east to Avenue B, south to Clinton street, south to Stanton street; on the west by Second avenue from Saint Mark's place to Second street, east to First avenue, south to East Houston street, east to Ludlow street, south to Stanton street; that portion of the twelfth assembly district of the county of New York, bounded on the north by Stanton street from Cannon street to the East river; on the south by the East river, from Jackson street to East street and the East river; on the east by East street or the East river from Stanton street to East street or the East river; on the west by Cannon street from Stanton street to Broome street, west to Sheriff street, south to Grand street, east to Jackson street, south to the East river; the fourteenth assembly district of the county of New York; that portion of the sixteenth assembly district of the county of New York, bounded on the north by East Eleventh street, from Avenue C, to the East river; on the south by Stanton street from Clinton street to the East river; on the east by the East river from East Eleventh street to Stanton street; on the west by Clinton street from Stanton street to East Houston street, north by Avenue B to East Houston street, to Seventh street, east to Avenue C, north to East Eleventh street, shall compose the tenth district. The boundaries of the said tenth district are as follows: Beginning at East Fourteenth street and the East river, west to Third avenue, south to Saint Mark's place, east to Second avenue, south to Second street, east to First avenue, south to East Houston street, west to Eldridge street, south to Stanton street, east to Cannon street, south to Broome street, west to Sheriff street, south to Grand street, west on the south side of Grand street to

Pitt street, south to Division street, west to Montgomery street, to northeast corner of Henry street and Montgomery street, diagonally through said block to the southwest corner of Madison street and Clinton street, south to the East river, thence along the East river to the point or place of beginning.

Eleventh district.—That portion of the fifth assembly district bounded on the north by Christopher street from West Fourth street to Sixth avenue, to Ninth street, to Fifth avenue, to East Tenth street, to University place, to East Fourteenth street, to Third avenue; on the south by Grove street from Hudson street, to Bleecker street, to Cornelia street, to Sixth avenue, to West Third street, to Broadway, to East Fourth street, to Third avenue; on the east by Third avenue from East Fourth street to East Fourteenth street; on the west by Hudson street from Grove street to the intersection of Hudson street and Eighth avenue; and that portion of the seventh assembly district of the county of New York bounded on the north by West Twentieth street from the North river to Eighth avenue; on the south by Barrow street from the Hudson river to Hudson street; on the east by Eighth avenue from West Twentieth street to West Fourteenth street, to Hudson street, to Horatio street, to Greenwich street, to West Eleventh street, to Hudson street, to Barrow street; on the west by the Hudson river from West Twentieth street to Barrow street; that portion of the ninth assembly district of the county of New York bounded on the north by West Thirtieth street from the Hudson river to Seventh avenue; on the south by West Twentieth street from the Hudson river to Eighth avenue, to West Nineteenth street, to Seventh avenue; on the east by Seventh avenue from West Thirtieth street to West Twenty-third street, to Eighth avenue, to West Twenty-first street, to Seventh avenue, to West Nineteenth street; on the west by the Hudson river from West Thirtieth street to West Twentieth street; the eleventh assembly district of the county of New York; the thirteenth assembly district of the county of New York; that portion of the fifteenth assembly district of the county of New York bounded on the north by West Forty-ninth street from the Hudson river to Tenth avenue, to West Fiftieth street, to Ninth avenue; on the south by West Forty-sixth street from the Hudson river to Tenth avenue, to West Forty-third street, to Ninth avenue; on the east by Ninth avenue from West Fiftieth street to West Forty-third street; on the west by the Hudson river from West Forty-ninth street to West Forty-sixth street; and that portion of the seventeenth assembly district of the county of New York bounded on the north by west Sixtieth street from the Hudson river to Columbus avenue; on the south by West Forty-ninth street from the Hudson river to Tenth avenue, to West Fiftieth street, to Ninth avenue; on the east by Columbus avenue from West Sixtieth

street to West Fifty-ninth street, and by Ninth avenue from West Fifty-ninth street to West Fiftieth street; on the west by the Hudson river from West Sixtieth street to West Forty-ninth street, shall compose the eleventh district. The boundaries of the said eleventh district are as follows: beginning at Hudson river and Barrow street east, to Hudson street, north to Grove street, easterly to Bleecker street, easterly on Bleecker street, to Cornelia street, easterly on Cornelia street, to Sixth avenue, south to West Third street, east to Broadway, north to East Fourth street, east to Third avenue, north to East Fourteenth street, west to University place, south to East Tenth street, west to Fifth avenue, south to West Ninth street, west to Christopher street, westerly to West Fourth street, northerly to Eighth avenue, to Hudson street, southerly along Hudson street to West Eleventh street, west to Greenwich street, north to Horatio street, east to Hudson street, north to West Fourteenth street, east to Eighth avenue, north to West Nineteenth street, east to Seventh avenue, north to West Twenty-first street, west to Eighth avenue, north to West Twenty-third street, east to Seventh avenue, north to West Fortieth street, west to Eighth avenue, north to West Forty-third street, west to Ninth avenue, north to West Sixtieth street, west to Hudson river to point of beginning at Hudson river and Barrow street.

Twelfth district.—That portion of the eighteenth assembly district of the county of New York bounded on the north by East Twenty-third street from Third avenue to Second avenue, to East Twenty-fifth street, to First avenue, to East Twenty-sixth street, to the East river; on the south by East Eighteenth street from Third avenue to Second avenue, to East Fourteenth street, to the East river; on the east by the East river from East Twenty-sixth street to East Fourteenth street; on the west by Third avenue from East Eighteenth street to East Twenty-third street; that portion of the twentieth assembly district of the county of New York bounded on the north by East Thirty-eighth street from Second avenue to the East river; on the south by East Twenty-third street from Lexington avenue to Second avenue, to East Twenty-fifth street, to First avenue, to East Twenty-sixth street, to the East river; on the east by the East river from East Thirty-eighth street to East Twenty-fifth street; on the west by Second avenue from East Thirty-eighth street to East Twenty-ninth street, to Lexington avenue, to East Twenty-third street; that portion of the twenty-second assembly district of the county of New York bounded on the north by East Fifty-second street from Third avenue to the East river; on the south by East Thirty-ninth street from Lexington avenue to Third avenue, to East Thirty-seventh street, to Second avenue, to East Thirty-eighth street, to East river; on the east by the East river from East

Fifty-second street to East Thirty-eighth street; on the west by Third avenue from East Fifty-second street to East Forty-second street, to Lexington avenue, to East Thirty-ninth street; that portion of the twenty-fourth assembly district of the county of New York bounded on the north by East Sixty-fifth street from Third avenue to the East river; on the south by East Fifty-third street from Lexington avenue to Third avenue, to East Fifty-second street, to the East river; on the east by the East river from East Sixty-fifth street to East Fifty-second street, including Blackwell's island; on the west by Third avenue, from East Sixty-fifth street to East Fifty-ninth street, to Lexington avenue, to East Fifty-third street; that portion of the Twenty-sixth assembly district of the county of New York bounded on the north by East Seventy-second street from Lexington avenue to the East river; on the south by East Sixty-fourth street from Lexington avenue to Third avenue, to East Sixty-fifth street, along East Sixty-fifth street to the East river; on the east by the East river from East Seventy-second street to East Sixty-fifth street; on the west by Lexington avenue from East Seventy-second street to East Sixty-fourth street, shall compose the twelfth district. The boundaries of the said twelfth district are as follows: Beginning at the East river and East Fourteenth street, west to Second avenue, north to East Eighteenth street, west to Third avenue, north to East Twenty-third street, west to Lexington avenue, north to East Twenty-ninth street, east to Second avenue, north to East Thirty-seventh street, west to Third avenue, north to East Thirty-ninth street, west to Lexington avenue, north to East Forty-second street, east to Third avenue, north to East Fifty-third street, west to Lexington avenue, north to East Fifty-ninth street, east to Third avenue, north to East Sixty-fourth street, west to Lexington avenue, north to East Seventy-second street, to the East river to point of beginning at the East river and East Fourteenth street, including Blackwell's island.

Thirteenth district.—That portion of the fifth assembly district of the county of New York bounded on the north by West Thirteenth street from Eighth avenue to Seventh avenue, to West Fifteenth street, to Sixth avenue, to West Fourteenth street, to East Fourteenth street, to University place; on the south by Christopher street from West Fourth street to Sixth avenue and West Ninth street from Sixth avenue to Fifth avenue, to East Tenth street, to University place; on the east by University place from East Fourteenth street to East Tenth street; on the west by Eighth avenue from West Thirteenth street to West Fourth street, to Christopher street; that portion of the seventh assembly district of the county of New York bounded on the north by West Fourteenth street from Hudson street to Eighth avenue, to West Nineteenth street, to Seventh avenue; on the south by West

Eleventh street from Greenwich street to Hudson street, to Eighth avenue, to West Thirteenth street, to Seventh avenue; on the west by Eighth avenue from West Nineteenth street to West Fourteenth street, to Hudson street, to Horatio street, to Greenwich street, to West Eleventh street; on the east by Seventh avenue from West Nineteenth street to West Thirteenth street, that portion of the ninth assembly district of the county of New York bounded on the north by West Twenty-third street from Eighth avenue to Seventh avenue; on the south by West Twenty-first street from Eighth avenue to Seventh avenue; on the east by Seventh avenue from West Twenty-third street to West Twenty-first street; on the west by Eighth avenue from West Twenty-third street to West Twenty-first street; that portion of the eighteenth assembly district of the county of New York bounded on the north by East Nineteenth street from Irving place to Third avenue, to East Eighteenth street, to Second avenue; on the south by East Fourteenth street from Irving place to Second avenue; on the east by Second avenue from East Eighteenth street to East Fourteenth street; on the west by Irving place from East Nineteenth street to East Fourteenth street; that portion of the twentieth assembly district of the county of New York bounded on the north by East Thirty-ninth street from Lexington avenue to Third avenue, to East Thirty-seventh street, to Second avenue; on the south by East Twenty-ninth street from Lexington avenue to Second avenue; on the east by Second avenue from East Thirty-seventh street to East Twenty-ninth street; on the west by Lexington avenue from East Thirty-ninth street to East Twenty-ninth street; that portion of the twenty-second assembly district of the county of New York bounded on the north by East Fifty-third street from Lexington avenue to Third avenue; on the south by East Forty-second street from Lexington avenue to Third avenue; on the east by Third avenue from East Fifty-third street to East Forty-second street; on the west by Lexington avenue from East Fifty-third street to East Forty-second street; that portion of the twenty-fourth assembly district of the county of New York bounded on the north by East Sixty-fourth street from Lexington avenue to Third avenue; on the south by East Fifty-ninth street from Lexington avenue to Third avenue; on the east by Third avenue from East Sixty-fourth street to East Fifty-ninth street; on the west by Lexington avenue from East Sixty-fourth street, to East Fifty-ninth street; the twenty-fifth assembly district of the county of New York; the twenty-seventh assembly district of the county of New York; and that portion of the twenty-ninth assembly district of the county of New York bounded on the north by a line through Central Park from Central Park West and West Eighty-sixth street to Fifth avenue and Eighty-sixth street, to

East Ninety-third street, to Park avenue, to East Eighty-ninth street to Lexington avenue; on the south by West Fifty-third street from Seventh avenue, to Fifth avenue, to East Fifty-fourth street, to Lexington avenue; on the east by Lexington avenue from East Eighty-ninth street to East Fifty-fourth street; on the west by Central Park West from West Eighty-sixth street to West Fifty-ninth street to Sixth avenue, to West Fifty-fifth street, to Seventh avenue, to West Fifty-third street, shall compose the thirteenth district. The boundaries of the said thirteenth district are as follows: beginning at the northwest corner of Hudson street and West Eleventh street, north to Eighth avenue, to West Fourth street, south to Christopher street, east to West Ninth street, east to Fifth avenue, north to East Tenth street, east to University place, north to East Fourteenth street, east to Second avenue, north to East Eighteenth street, west to Third avenue, north to East Twenty-third street, west to Lexington avenue, north to East Twenty-ninth street, east to Second avenue, north to East Thirty-seventh street, west to Third avenue, north to East Thirty-ninth street, west to Lexington avenue, north to East Forty-second street, east to Third avenue, north to East Fifty-third street, west to Lexington avenue, north to East Fifty-ninth street, east to Third avenue, north to East Sixty-fourth street, west to Lexington avenue, north to East Eighty-ninth street, west to Park avenue, north to East Ninety-third street, west to Fifth avenue, south along Fifth avenue to Eighty-sixth street, west across Central Park to West Eighty-sixth street and Central Park West, south to West Fifty-ninth street, east to Sixth avenue, south to West Fifty-fifth street, west to Seventh avenue, south to West Fifty-third street, west to Eighth avenue, south to West Fortieth street, east to Seventh avenue, south to West Twenty-third street, West to Eighth avenue, south to West Twenty-first street, east to Seventh avenue, south to West Nineteenth street, west to Eighth avenue, south to West Fourteenth street, west to Hudson street, south to Horatio street, west to Greenwich street, south to West Eleventh street, east to point of beginning at the northwest corner of West Eleventh street and Hudson street.

Fourteenth district.—That portion of the twenty-sixth assembly district of the county of New York bounded on the north by East Seventy-fifth street from Lexington avenue to Third avenue, to East Seventy-sixth street, to the East river; on the south by East Seventy-second street from Lexington avenue to the East river; on the east by the East river from East Seventy-sixth street to East Seventy-second street; on the west by Lexington avenue from East Seventy-fifth street to East Seventy-second street; the twenty-eighth assembly district of the county of New York; that portion of the thirtieth assembly district of the county of New

York bounded on the north by East Eighty-ninth street from Lexington avenue to Third avenue to East Eighty-eighth street, to the East river; on the south by East Eighty-fourth street from Lexington avenue to Second avenue, to East Eighty-third street, to the East river; on the east by the East river from East Eighty-eighth street to East Eighty-third street; on the west by Lexington avenue from East Eighty-ninth street to East Eighty-fourth street; and the first ward of Queens county, known as Long Island City, and the second ward of Queens county, known as the town of Newtown, shall compose the fourteenth district. The boundaries of the said fourteenth district are as follows: beginning at the East river and East Seventy-second street, west to Lexington avenue, north to East Eighty-ninth street, east to Third avenue, south to East Eighty-eighth street, east to the East river, to point of beginning at the East river and East Seventy-second street, and that part of Queens county known as the first and second wards of Queens county whose boundaries are as follows: Beginning at Newtown creek and the East river to Flushing creek, south to Ward street, Richmond hill, west to Forest park, along the southern boundary of Forest park through Cypress Hill cemetery, to the Kings county line, northwest to Newtown creek to point of beginning at Newtown creek and the East river.

Fifteenth district.—That portion of the fifteenth assembly district of the county of New York bounded on the north by West Fifty-third street from Ninth avenue to Eighth avenue; on the south by West Forty-third street from Ninth avenue to Eighth avenue; on the east by Eighth avenue from West Fifty-third street to West Forty-third street; on the west by Ninth avenue from West Fifty-third street to West Forty-third street; that portion of the seventeenth assembly district of the county of New York bounded on the north by West Sixty-first street from Columbus avenue to Central Park West; on the south by West Fifty-third street from Ninth avenue to Eighth avenue; on the east by Central Park West and Eighth avenue from West Sixty-first street to West Fifty-third street; on the west by Columbus avenue and Ninth avenue from West Sixty-first to West Fifty-third street; the nineteenth assembly district of the county of New York; that portion of the twenty-first assembly district of the county of New York bounded on the north by West One Hundred and First street from the Hudson river to Columbus avenue, to West One Hundred and Second street, to Central Park West; on the south by West Eighty-ninth street from the Hudson river to Amsterdam avenue, to West Eighty-sixth street, to Columbus avenue, to West Eighty-first street, to Central Park West; on the east by Central Park West from West One Hundred and Second street to West Eighty-first street; on the west by the

Hudson river from West One Hundred and First street to West Eighty-ninth street; and that portion of the twenty-ninth assembly district of the county of New York bounded on the north by the Central Park Transverse road from West Ninety-seventh street and Central Park West to Ninety-seventh street and Fifth avenue, to East Ninety-sixth street, to Lexington avenue; on the south by a line through Central park from West Eighty-sixth street and Central Park West to Eighty-sixth street and Fifth avenue, to Ninety-third street, to Park avenue, to East Eighty-ninth street, to Lexington avenue; on the east by Lexington avenue from East Ninety-sixth street to East Eighty-ninth street; on the west by Central Park West from West Ninety-seventh street to West Eighty-sixth street; and also that portion of the twenty-ninth assembly district of the county of New York bounded on the north by West Fifty-ninth street from Central Park West to Sixth avenue; on the south by West Fifty-third street from Eighth avenue to Seventh avenue, to West Fifty-fifth street, to Sixth avenue; on the east by Sixth avenue from West Fifty-ninth street to West Fifty-fifth street; on the west by Eighth avenue from West Fifty-ninth street to West Fifty-third street, shall compose the fifteenth district. The boundaries of the said fifteenth district are as follows: Beginning at the Hudson river and West Sixtieth street, east to Columbus avenue, south along Columbus avenue and Ninth avenue to West Forty-third street, east to Eighth avenue, north to West Fifty-third street, east to Seventh avenue, north to West Fifty-fifth street, east to Sixth avenue, north to West Fifty-ninth street, west to Central Park West, north to West Eighty-sixth street, east across Central Park to Eighty-sixth street and Fifth avenue, north along Fifth avenue to Ninety-third street, east to Park avenue, south to East Eighty-ninth street, east to Lexington avenue, north to East Ninety-sixth street, west to Fifth avenue, north to East Ninety-seventh street, west across Central Park Transverse road to West Ninety-seventh street and Central Park West, north to West One Hundred and Second street, west to Columbus avenue, south to West One Hundred and First street, west to Hudson river, to the point of beginning at Hudson river and West Sixtieth street.

Sixteenth district.—That portion of the thirtieth assembly district of the county of New York bounded on the north by East Ninety-second street from Lexington avenue to Third avenue, to East Ninety-fourth street, to the East river; on the south by East Eighty-ninth street from Lexington avenue to Third avenue, to East Eighty-eighth street, to the East river; on the east by the East river from East Ninety-fourth street to East Eighty-eighth street; on the west by Lexington avenue from East Ninety-second street to East Eighty-ninth street; that portion of the

thirty-first assembly district of the county of New York bounded on the north by East One Hundred and Twentieth street from Fifth avenue to Park avenue; on the south by East One Hundred and Tenth street from Fifth avenue to Park avenue; on the east by Park avenue from East One Hundred and Twentieth street to East One Hundred and Tenth street; on the west by Fifth avenue from East One Hundred and Twentieth street to East One Hundred and Tenth street; of the county of New York the thirty-second assembly district, including Ward's Island; and the thirty-third assembly district of the county of New York, including Randall's island, shall compose the sixteenth district. The boundaries of said sixteenth district are as follows: beginning at the East river and East Eighty-eighth street, west to Third avenue, north to East Eighty-ninth street, west to Lexington avenue, north to East Ninety-sixth street, west to Fifth avenue, north to East One Hundred and Twentieth street, east to Park avenue, south to East One Hundred and Nineteenth street, east to the East river, to point of beginning at the East river and East Eighty-eighth street, including Randall's and Ward's islands.

Seventeenth district.—That portion of the twenty-first assembly district of the county of New York bounded on the north by West One Hundred and Nineteenth street from the Hudson river to Broadway, to West One Hundred and Twentieth street, to Seventh avenue; on the south by West One Hundred and First street from the Hudson river to Columbus avenue, to West One Hundred and Second street, to Central Park West, to West Ninety-seventh street, across the Central Park Transverse road to East Ninety-seventh street and Fifth avenue; on the west by the Hudson river from West One Hundred and Nineteenth street to West One Hundred and First street; on the east by Seventh avenue from West One Hundred and Twentieth street to West One Hundred and Tenth street, to Fifth avenue, to the Central Park Transverse road at Fifth avenue and East Ninety-seventh street; the twenty-third assembly district of the county of New York; and that portion of the thirty-first assembly district of the county of New York bounded on the north by West One Hundred and Thirty-fourth street from Eighth avenue to Fifth avenue, to East One Hundred and Twenty-ninth street, to Park avenue; on the south by West One Hundred and Twentieth street from Eighth avenue to Seventh avenue, to West One Hundred and Tenth street, to Fifth avenue; on the east by Park avenue from East One Hundred and Twenty-ninth street to East One Hundred and Twentieth street, to Fifth avenue, to West One Hundred and Tenth street; on the west by Eighth avenue from West One Hundred and Thirty-fourth street to West One Hundred and Twentieth street shall compose the seventeenth district.

The boundaries of the said seventeenth district are as follows: beginning at the Hudson river and West One Hundred and First street east to Columbus avenue, north to West One Hundred and Second street, east to Central Park West, south to West Ninety-seventh street, east across the Central Park Transverse road to Fifth avenue and East Ninety-seventh street, north to East One Hundred and Twentieth street, east to Park avenue, north to East One Hundred and Twenty-ninth street, west to Fifth avenue, north to the Harlem river, to the Hudson river, to the point of beginning at the Hudson river and West One Hundred and First street.

Eighteenth district.—The thirty-fourth assembly district and the thirty-fifth assembly district of the county of New York and the annexed district, shall compose the eighteenth district. The boundaries of the said eighteenth district are as follows: beginning at the East river and East One Hundred and Nineteenth street, west to Park avenue, north to East One Hundred and Twenty-ninth street, west to Fifth avenue, north to the Harlem river, to the Hudson river, to the Yonkers city line, to Long Island sound, to the East river, to the point of beginning at the East river and East One Hundred and Nineteenth street, including islands in Long Island sound and Harlem river attached to the said thirty-fourth and thirty-fifth assembly districts and the annexed district.

Nineteenth district.—The county of Westchester shall compose the nineteenth district.

Twentieth district.—The counties of Sullivan, Orange and Rockland shall compose the twentieth district.

Twenty-first district.—The counties of Greene, Columbia, Putnam and Dutchess shall compose the twenty-first district.

Twenty-second district.—The counties of Rensselaer and Washington shall compose the twenty-second district.

Twenty-third district.—The counties of Albany and Schenectady shall compose the twenty-third district.

Twenty-fourth district.—The counties of Delaware, Otsego, Ulster and Schoharie shall compose the twenty-fourth district.

Twenty-fifth district.—The counties of Fulton, Hamilton, Montgomery, Warren and Saratoga shall compose the twenty-fifth district.

Twenty-sixth district.—The counties of Clinton, Essex, Franklin and Saint Lawrence shall compose the twenty-sixth district.

Twenty-seventh district.—The counties of Herkimer and Oneida shall compose the twenty-seventh district.

Twenty-eighth district.—The counties of Jefferson, Lewis and Oswego shall compose the twenty-eighth district.

Twenty-ninth district.—The counties of Onondaga and Madison shall compose the twenty-ninth district.

Thirtieth district.—The counties of Broome, Chenango, Tioga, Tompkins and Cortland shall compose the thirtieth district.

Thirty-first district.—The counties of Cayuga, Ontario, Wayne and Yates shall compose the thirty-first district.

Thirty-second district.—The county of Monroe shall compose the thirty-second district.

Thirty-third district.—The counties of Chemung, Schuyler, Seneca and Steuben shall compose the thirty-third district.

Thirty-fourth district.—The counties of Genesee, Livingston, Niagara, Orleans and Wyoming shall compose the thirty-fourth district.

Thirty-fifth district.—The first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth and eighteenth wards of the city of Buffalo as now constituted shall compose the thirty-fifth district.

Thirty-sixth district.—The seventeenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth wards of the city of Buffalo as now constituted and the seventh and eighth assembly districts of the county of Erie shall compose the thirty-sixth district.

Thirty-seventh district.—The counties of Allegany, Cattaraugus and Chautauqua shall compose the thirty-seventh district.

§ 3. This act shall take effect immediately.

JUDICIAL DISTRICTS.

The state is divided into eight judicial districts, numbered and composed of the territory, respectively, as follows:

First.—The city of New York.

Second.—The counties of Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam and Dutchess.

Third.—The counties of Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer.

Fourth.—The counties of Warren, Saratoga, Washington, Essex, Franklin, Saint Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady.

Fifth.—The counties of Onondaga, Oswego, Oneida, Herkimer, Jefferson and Lewis.

Sixth.—The counties of Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins, Cortland and Schuyler.

Seventh.—The counties of Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Monroe and Cayuga.

Eighth.—The counties of Erie, Chautauqua, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming.

SCHOOL COMMISSIONER DISTRICTS.

The districts as organized in the different counties on the 1st day of January, 1900, are as follows :

ALBANY COUNTY.

See L. 1902, Chap. 561.

First district.—Towns of Bethlehem, Coeymans and New Scotland.

Second district.—Towns of Berne, Knox, Rensselaerville and Westerlo.

Third district.—Towns of Colonie, Green Island and Guilderland.

The city of Albany is organized under a special school act.

The city of Cohoes is organized under a special school act.

The city of Watervliet is organized under a special school act.

ALLEGANY COUNTY.

First district.—Towns of Allen, Almond, Angelica, Belfast, Birdsall, Burns, Caneadea, Centreville, Granger, Grove, Hume, New Hudson, Rushford and West Almond.

Second district.—Towns of Alfred, Alma, Amity, Andover, Bolivar, Clarksville, Cuba, Friendship, Genesee, Independence, Scio, Ward, Wellsville, Willing and Wirt.

BROOME COUNTY.

First district.—Towns of Chenango, Colesville, Conklin, Fenton, Kirkwood, Sanford and Windsor.

Second district.—Towns of Barker, Binghamton, Dickinson, Chenango, Lisle, Maine, Nanticoke, Triangle, Union and Vestal.

The city of Binghamton is organized under a special school act.

CATTARAUGUS COUNTY.

First district.—Towns of Allegany, Farmersville, Franklinville, Freedom, Hinsdale, Humphrey, Ischua, Lyndon, Machias, Olean, Portville and Yorkshire.

Second district.—Towns of Carrollton, Coldspring, Conewango, Ellicottville, Elko, Great Valley, Napoli, Randolph, Red House, Salamanca and South Valley.

Third district.—Towns of Ashford, Dayton, East Otto, Leon, Little Valley, Mansfield, New Albion, Otto, Perrysburg and Persia.

CAYUGA COUNTY.

First district.—Towns of Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Sterling, Throop and Victory.

Second district.—Towns of Aurelius, Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipo, Sempronius, Summer Hill, Springport and Venice.

The city of Auburn is organized under a special school act.

CHAUTAUQUA COUNTY.

First district.—Towns of Busti, Chautauqua, Clymer, French Creek, Harmony, Mina and Sherman.

Second district.—Towns of Arkwright, Hanover, Pomfret, Portland, Ripley, Sheridan, Villanova and West Field.

Third district.—Towns of Carroll, Charlotte, Cherry Creek, Elletts, Ellicott, Ellington, Gerry, Kiantone, Poland and Stockton. The city of Dunkirk is organized under a special school act.

The city of Jamestown is organized under a special school act.

CHEMUNG COUNTY.

Comprises a single district.

The city of Elmira is organized under a special school act.

CHENANGO COUNTY.

First district.—Towns of Columbus, Lincklaen, New Berlin, North Norwich, Norwich, Otselic, Pharsalia, Pitcher, Plymouth, Sherburne and Smyrna.

Second district.—Towns of Afton, Bainbridge, Coventry, Greene, German, Guilford, McDonough, Oxford, Preston and Smithville.

CLINTON COUNTY.

First district.—Towns of Ausable, Black Brook, Dannemora, Peru, Plattsburgh, Saranac and Schuyler Falls.

Second district.—Towns of Altoona, Beekmantown, Champlain, Chazy, Clinton, Ellenburgh and Mooers.

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COLUMBIA COUNTY.

First district.—Towns of Ancram, Claverack, Clermont, Copake, Gallatin, Germantown, Greenport, Livingston and Taghkanic.

Second district.—Towns of Austerlitz, Canaan, Chatham, Ghent, Hillsdale, Kinderhook, New Lebanon, Stockport and Stuyvesant. The city of Hudson is organized under a special school act.

CORTLAND COUNTY.

First district.—Towns of Cincinnatus, Cortlandville, Freetown, Harford, Lapeer, Marathon, Virgil and Willett.

Second district.—Towns of Cuyler, Homer, Preble, Scott, Solon, Taylor and Truxton.

DELAWARE COUNTY.

First district.—Towns of Colchester, Deposit, Franklin, Hamden, Hancock, Masonville, Sydney, Tompkins and Walton.

Second district.—Towns of Andes, Bovina, Davenport, Delhi, Harpersfield, Kortright, Meredith, Middletown, Roxbury and Stamford.

DUTCHESS COUNTY.

First district.—Towns of Amenia, Beekman, Dover, East Fishkill, Fishkill, La Grange, North East, Pawling, Pine Plains, Stamford, Union Vale, Wappinger and Washington.

Second district.—Towns of Clinton, Hdy Park, Milan, Pleasant Valley, Poughkeepsie, Red Hood, Rhinebeck.

ERIE COUNTY.

First district.—Towns of Alden, Amherst, Cheektowaga, Clarence, Grand Island, Lancaster, Newstead and Tonawanda.

Second district.—Towns of Aurora, East Hamburg, Eden, Elma, Evans, Hamburg, Marilla, Wales and West Seneca.

Third district.—Towns of Boston, Brant, Colden, Concord, Collins, Holland, North Collins and Sardinia.

The city of Buffalo is organized under a special school act.

ESSEX COUNTY.

First district.—Towns of Chesterfield, Elizabethtown, Essex, Jay, Keene, Lewis, North Elba, St. Armand, Willsborough and Wilmington.

Second district.—Towns of Crown Point, Minerva, Moriah, Newcomb, North Hudson, Schroon, Ticonderoga and Westport.

FRANKLIN COUNTY.

First district.—Towns of Bellmont, Brighton, Burke, Chateaugay, Duane, Franklin, Harriestown and Malone.

Second district.—Towns of Altamont, Bangor, Bombay, Brandon, Constable, Dickinson, Fort Covington, Moria, Santa Clara, Waverly and Westville.

FULTON COUNTY.

Comprises a single district, excluding Gloversville and Johnstown.

The city of Gloversville is organized under a special school act.
The city of Johnstown is organized under a special school act.

GENESEE COUNTY.

Comprises a single district.

GREENE COUNTY.

First district.—Towns of Athens, Cairo, Catskill, Halcott, Hunter, Jewett and Lexington.

Second district.—Towns of Ashland, Coxsackie, Durham, Greenville, New Baltimore, Prattsville and Windham.

HAMILTON COUNTY.

Comprises a single district.

HERKIMER COUNTY.

First district.—Towns of Fairfield, Herkimer, Little Falls, Manheim, Newport, Norway, Ohio, Russia, Salisbury, Webb and Wilmurt.

Second district.—Towns of Columbia, Danube, Frankfort, German Flats, Litchfield, Schuyler, Stark, Warren and Winfield.

City of Little Falls organized under special school act.

JEFFERSON COUNTY.

First district.—Towns of Adams, Ellisburgh, Le Ray, Lorraine, Pamela, Rodman, Watertown and Worth.

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Second district.—Towns of Alexander, Antwerp, Champion, Philadelphia, Rutland, Theresa and Wilna.

Third district.—Towns of Brownville, Cape Vincent, Clayton, Anderson, Hounsfield, Lyme and Orleans.

The city of Watertown is organized under a special school act.

KINGS COUNTY.

Comprises a single district, excluding the city of Brooklyn.

The city of Brooklyn is organized under a special school act.

LEWIS COUNTY.

First district.—Towns of Greig, High Market, Lewis, Leyden, Lyonsdale, Martinsburgh, Osceola, Turin and West Turin.

Second district.—Towns of Croghan, Denmark, Diana, Harrisburgh, Lowville, Montague, New Bremen, Pinckney and Watson.

LIVINGSTON COUNTY.

First district.—Towns of Avon, Caledonia, Conesus, Geneseo, Groveland, Leicester, Lima, Livonia and York.

Second district.—Towns of Mount Morris, North Dansville, Nunda, Ossian, Portage, Sparta, Springwater and West Sparta.

MADISON COUNTY.

First district.—Towns of Brookfield, De Ruyter, Eaton, Georgetown, Hamilton, Lebanon, Madison and Nelson.

Second district.—Towns of Cazenovia, Fenner, Lenox, Lincoln, Oneida, Smithfield, Stockbridge and Sullivan.

MONROE COUNTY.

First district.—Towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perrinton, Pittsford, Rush and Webster.

Second district.—Towns of Clarkson, Chili, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland.

The city of Rochester is organized under a special school act.

MONTGOMERY COUNTY.

Comprises a single district.

City of Amsterdam is organized under a special school act.

NASSAU COUNTY.

Comprises a single district.

NEW YORK.

Comprises the boroughs of Manhattan and the Bronx in the city of New York.

New York city is organized under a special school act.

NIAGARA COUNTY.

First district.—Towns of Cambria, Lockport, Pendleton, Royalton and Wheatfield.

Second district.—Towns of Hartland, Lewiston, Newfane, Niagara, Porter, Somerset and Wilson.

The city of Niagara Falls is organized under a special school act.

The city of Lockport is organized under a special school act.

ONEIDA COUNTY.

First district.—Towns of Deerfield, Floyd, Marcy, New Hartford and Whitestown.

Second district.—Towns of Augusta, Bridgewater, Kirkland, Marshall, Paris, Sangerfield, Vernon and Westmoreland.

Third district.—Towns of Camden, Florence, Rome, Verona and Vienna.

Fourth district.—Towns of Amnsville, Ava, Boonville, Forestport, Lee, Renssen, Steuben, Trenton and Western.

The city of Utica is organized under a special school act.

The city of Rome is organized under a special school act.

ONONDAGA COUNTY.

First district.—Towns of Camillus, Clay, Elbridge, Lysander, Salina and Van Buren.

Second district.—Towns of Geddes, Marcellus, Onondaga, Otisco, Skaneateles, Spafford and Tully.

Third district.—Towns of Cicero, De Witt, Fabius, Lafayette, Manlius and Pompey.

The city of Syracuse is organized under a special school act.

ONTARIO COUNTY.

First district.—Towns of Farmington, Geneva, Gorham, Hopewell, Manchester, Phelps and Seneca.

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Second district.—Towns of Bristol, Canadice, Canandaigua, East Bloomfield, Naples, Richmond, South Bristol, Victor and West Bloomfield.

ORANGE COUNTY.

First district.—Towns of Blooming Grove, Cornwall, Crawford, Highlands, Hamptonburgh, Montgomery, Monroe, Newburgh and New Windsor, in the county of Orange.

Second district.—Towns of Chester, Deerpark, Greenville, Goshen, Mount Hope, Minisink, Tuxedo, Walkill, Warwick, Wawayanda and Woodbury.

The city of Newburgh is organized under a special school act.

The city of Middletown is organized under a special school act.

ORLEANS COUNTY.

Comprises a single district.

OSWEGO COUNTY.

First district.—Towns of Granby, Hannibal, New Haven, Oswego, Scriba and Volney.

Second district.—Towns of Amboy, Constantia, Hastings, Palermo, Parish, Schroepfel and West Monroe.

Third district.—Towns of Albion, Boylston, Mexico, Orwell, Redfield, Richland, Sandy Creek and Williamstown.

The city of Oswego is organized under a special school act.

OTSEGO COUNTY.

First district.—Towns of Cherry Valley, Decatur, Exeter, Maryland, Middlefield, Otsego, Plainfield, Richfield, Roseboom, Springfield, Westford and Worcester.

Second district.—Towns of Burlington, Butternuts, Edmeston, Hartwick, Laurens, Milford, Morris, New Lisbon, Oneonta, Otsego, Pittsfield and Unadilla.

PUTNAM COUNTY.

Comprises a single district.

RENSSELAER COUNTY.

First district.—Towns of Berlin, Grafton, Hoosick, Lansingburgh, Petersburg, Pittstown and Schaghticoke.

Second district.—Towns of Brunswick, East Greenbush, Greenbush, Nassau, North Greenbush, Poestenkill, Sandlake, Schodack and Stephentown.

The city of Troy is organized under a special school act.

The city of Rensselaer is organized under a special school act.

ROCKLAND COUNTY.

Comprises a single district.

ST. LAWRENCE COUNTY.

First district.—Towns of DeKalb, DePeyster, Fine, Fowler, Gouverneur, Hammond, Macomb, Morristown, Oswegatchie, Pitcairn and Rossie.

Second district.—Towns of Canton, Clare, Clifton, Colton, Edwards, Hermon, Lisbon, Madrid, Norfolk, Pierrepont, Russell and Waddington.

Third district.—Towns of Brasher, Hopkinton, Lawrence, Louisville, Massena, Parishville, Potsdam and Stockholm.

The city of Ogdensburgh is organized under a special school act.

SARATOGA COUNTY.

First district.—Towns of Ballston, Charlton, Clifton Park, Galway, Halfmoon, Malta, Milton, Providence, Stillwater and Waterford.

Second district.—Towns of Corinth, Day, Edinburgh, Greenfield, Hadley, Moreau, Northumberland, Saratoga, Saratoga Springs and Wilton.

SCHENECTADY COUNTY.

Towns, exclusive of city, compose one district.

The city of Schenectady is organized under a special school act.

SCHOHARIE COUNTY.

First district.—Towns of Broome, Blenheim, Conesville, Esperance, Gilboa, Middleburgh, Schoharie and Wright.

Second district.—Towns of Carlisle, Cobleskill, Fulton, Jefferson, Richmondville, Seward, Sharon and Summit.

SCHUYLER COUNTY.

Comprises a single district.

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SENECA COUNTY.

Comprises a single district.

STEUBEN COUNTY.

First district.—Towns of Avoca, Bath, Bradford, Campbell, Cohocton, Prattsburgh, Pultney, Urbana, Wayland, Wayne and Wheeler.

Second district.—Towns of Addison, Cameron, Canton, Corning, Erwin, Hornby, Lindley, Rathbone, Thurston, Tuscarora and Woodhull.

Third district.—Towns of Dansville, Fremont, Howard, Canisteo, Greenwood, Hartsville, Hornellsville, Jasper, Troupsburgh and West Union.

The city of Hornellsville is organized under a special school act.

SUFFOLK COUNTY.

First district.—Towns of Easthampton, Riverhead, Southampton, Southold and Shelter Island.

Second district.—Towns of Babylon, Brookhaven, Huntington, Islip and Smithtown.

SULLIVAN COUNTY.

First district.—Towns of Bethel, Cohocton, Delaware, Forestburgh, Highland, Lumberland, Mamakating, Thompson and Tusten.

Second district.—Towns of Callicoon, Fallsburgh, Fremont, Liberty, Neversink and Rockland.

TIOGA COUNTY.

Comprises a single district.

TOMPKINS COUNTY.

First district.—Towns of Danby, Enfield, Ithaca, Newfield and Ulysses.

Second district.—Towns of Caroline, Dryden, Groton and Lansing.

The city of Ithaca is organized under a special school act.

ULSTER COUNTY.

First district.—Towns of Hurley, Kingston, Saugerties and Ulster.

Second district.—Towns of Esopus, Gardner, Lloyd, Marbletown, Marlborough, New Paltz, Plattekill, Rosendale and Shawangunk.

Third district.—Towns of Denning, Hardenburgh, Olive, Rochester, Shandakin, Wawarsing and Woodstock.

WARREN COUNTY.

First district.—Towns of Caldwell, Luzerne, Queensbury, Stony Creek and Thurman.

Second district.—Towns of Bolton, Chester, Hague, Horicon, Johnsburch and Warrensburgh.

WASHINGTON COUNTY.

First district.—Towns of Argyle, Cambridge, Easton, Fort Edward, Greenwich, Jackson, Salem and White Creek.

Second district.—Towns of Dresden, Fort Ann, Granville, Hampton, Hartford, Hebron, Kingsbury, Putnam and Whitehall.

WAYNE COUNTY.

First district.—Towns of Butler, Galen, Huron, Lyons, Rose, Savannah, Sodus and Wolcott.

Second district.—Towns of Arcadia, Macedon, Marion, Ontario, Palmyra, Walworth and Williamson.

WESTCHESTER COUNTY.

First district.—Towns of East Chester, Mamaroneck, New Rochelle, Pelham, Rye and Scarsdale.

Second district.—Towns of Greenburgh, Harrison, Mount Pleasant, North Castle, Ossining and White Plains.

Third district.—Towns of Bedford, Cortlandt, Lewisboro, New Castle, North Salem, Poundridge, Somers and Yorktown.

The city of Yonkers is organized under a special school act.

The city of Mt. Vernon is organized under a special school act.

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WYOMING COUNTY.

First district.—Towns of Attica, Bennington, Covington, Middlebury, Orangeville, Perry, Sheldon and Warsaw.

Second district.—Towns of Arcade, Castile, Eagle, Genesee Falls, Gainesville, Java, Pike and Wethersfield.

YATES COUNTY.

Comprises a single district.

VOTERS,

THEIR QUALIFICATIONS, PRIVILEGES AND DISABILITIES.

Vote, right to, not to be denied.—“The rights of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude. The congress shall have power to enforce this article by appropriate legislation.” (§§ 1, 2, art. 15, *amendment to United States Constitution.*)

Vote, who entitled to.—“Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elected by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.” (§ 1, art. 2, *State Constitution.*)

The right to vote secured to a citizen by the constitution must be exercised in the manner and subject to the regulations lawfully prescribed by the legislature in respect to the time when and the method by which his will is expressed, and in order to make his will and intention effectual at the election he must comply with, at least, all the substantial requirements of law. (*People ex rel. Nichols v. Board of Canvassers*, 129 N. Y. 401)

A minor who has been convicted of a felony and has served out his time during his minority is not qualified to vote upon coming of age. (*Hamilton v. People*, 57 Barb. 625.)

A female is a person not duly qualified to vote under the laws of this state and is liable to punishment for voting as provided by the Penal Code. (*People v. Barber*, 48 Hun, 193.)

Women have no right to vote for school commissioners, the act of 1892, which gives them such right, being unconstitutional. (*Matter of Gage*, 141 N. Y. 112.)

Right of deserters to vote.—"Deserters from the military and naval service have a right to vote unless convicted thereof by a competent court." (*Opinion of Attorney-General*.)

Right to vote while engaged in voting at close of polls.—"A voter who has received his ballots and is properly engaged in the preparation of the same at the time of the closing of the polls is entitled to vote." (*Opinion of Attorney-General*.)

"A person otherwise qualified whose twenty-first birthday is on the day succeeding election is entitled to vote." (*Opinion of Attorney-General*.)

Disfranchisement of voter by irregular acts of inspectors.—"The voters of an election district are not to be disfranchised by reason of irregularities in the conduct of inspectors, which do not affect the result of the vote." (*Opinion of Attorney-General*.)

Allowance of time for employes to vote.—"Any person entitled to vote at a general election held within this state, shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer, before the day of such election, of such intended absence, and if thereupon two consecutive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer, upon the day of such notice, makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer, by reason of such absence." (§ 109, *Election Law*.)

Refusal to permit employes to attend elections.—"A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat,

provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor." (§ 41f, *Penal Code*.)

Persons excluded from the right of suffrage, etc.—"No person who shall receive, expect, or offer to receive, or pay, or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall be or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall give his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not been offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made become directly or indirectly interested in any bet or wager depending upon the result of any election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime." (§ 2, *art. 2, Revised Constitution*.)

Pardon and restoration.—"The governor has the exclusive power of pardoning and restoring to the rights of a citizen criminals convicted in the courts of this state." (*See* § 5, *art. 4, Revised Constitution*.)

Disabilities of persons removed.— “ The disqualification to testify created by section twenty-three (original number) of title seven, chapter first of part fourth of the Revised Statutes, and the prohibition to vote at any election contained in section fifteen of chapter two hundred and forty of the Laws of eighteen hundred and forty-seven, shall not apply to a person heretofore convicted, or hereafter to be convicted, of felony, or of any infamous crime, and in consequence thereof committed to one of the houses of refuge or other reformatories organized under the laws of this state.” (*Chap. 113, 1872, entitled “An act to relieve juvenile delinquents from certain disqualifications.”*)

Voting residence.— “ For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison.” (§ 3, *art. 2, State Constitution.*)

Voting residence of government employees.— “ The voting residence of a person is largely a question of intention. A residence is not changed by engaging in the service of the government.” (*Opinion of Attorney-General.*)

Residence — matter of intention.— “ The question of the place of residence of a voter is largely a matter of intention.

“ As a general proposition, it may be stated that the residence required by the constitution is a place which a person has fixed as a habitation without any present intention of removing therefrom. A residence, once acquired, continues to be the residence of a person until such person absents himself therefrom and locates at another place with the intention of there remaining. Temporary absence, with the purpose of returning, does not effect a change of residence.” (*Opinion of Attorney-General.*)

Residence, for the purpose of voting, and how not lost or acquired.— “ A residence is ‘ the place of abode,’ ‘ the place in which one usually has his home.’ To reside in a particular election district and county is for one to have his home usually and at the time of election in such election district. A person, in order to entitle him to vote, must, as before stated, be a resident of such election district thirty days, of the county four months, and of the state one year, and ‘ for the purpose of voting ’ it

is by our constitution provided that 'no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum at public expense; nor while confined in any public prison.

"If an elector change his residence from one election district to another, in the same county, within thirty days previous to a general or special election, he thereby loses the right of voting at such election. If he remove within thirty days of a town or city election, from one town to another, in the same county, or from one ward to another, in the same city (or from one election district to another, in the same city, or from one election district of a town having election districts for town meeting to another election district in the same town), he thereby loses the right of voting at such election, for town, ward or city officers.

"It must be borne in mind that no person can (as is sometimes erroneously believed) vote for governor or any other officer, except in the election district of his actual residence." (*Election Code by Secretary of State.*)

A student living in one of the seminary buildings of the General Theological Seminary of the Episcopal Church in New York city is not entitled to be registered in the election district in which the seminary is situated, unless he intends to change his legal residence from his former residence, and such intention be manifested by acts which are independent of his residence as a student in the locality. (*Matter of Garvey*, 147 N. Y. 117.)

The Homes for Aged Men in Albany and Oneida counties are "institutions wholly or partly supported by charity," within section 34 of the Election Law, and within section 3, article 2 of the State Constitution, and persons domiciled there shall not be deemed to have gained or lost a residence while there. But such sections of the law and the Constitution are not retroactive, and inmates of such homes who voted in the district where the homes are situated before the constitutional provision went into effect, shall not be deprived of their votes, as they are deemed to have intended thereby to make such institution their permanent residence. (*Matter of Batterman*, 14 Misc. Rep. 213; *Matter of Griffiths*, 16 id. 128.)

Soldiers in the United States army do not acquire a residence by being quartered long in a particular place. (*Biddle and Richards v. Wing*, Cl. & H. 504, 512.)

Residence is determined by the intention of the party. An elector cannot have two homes at the same time; when he acquires the new home he loses the old one. To effect this change there must be both act and intention. *McDaniels' Case*, 3 Pa. L. J. 310; *Sturgeon v. Korte*, 38 Ohio St. 625; *Johnson v. People*, 94 Ill. 505.)

Manner of voting.—Section five of article two of the Constitution provides that: "All elections by the citizens shall be

by ballot, except for such town officers as may, by law, be directed to be otherwise chosen." The particular manner of voting prescribed by law will be found on page 131.

Voting by an inhabitant of another state or country.— "Any inhabitant of another state or country who votes or offers to vote at an election or town meeting in this state, is guilty of a felony." (§ 41*m*, *Penal Code*.)

Failure of house-dweller to answer inquiries.— "Any person dwelling in a building in a city who willfully refuses to truly answer any question asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls at such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, is guilty of a misdemeanor." (§ 41*d*, *Penal Code*.)

Furnishing money or entertainment to induce attendance at polls.— "Any person who, with the intent to promote the election of a person to an elective office :

" 1. Furnishes entertainment to the electors before or during an election or town meeting at which such person is a candidate ; or,

" 2. Pays for, procures, or engages to pay for such entertainment ; or,

" 3. Furnishes money or other property, or engages to compensate any person for procuring the attendance of voters at the polls of such election or town meeting ; or

" 4. Contributes money for any other purposes than the printing and circulating of hand bills, books and other papers previous to an election or town meeting, or conveying electors to the polls, or music, or rent of halls, is guilty of a misdemeanor." (§ 41*o*, *Penal Code*.)

§ 41-*o*. **Giving consideration for franchise.**—Any person who directly or indirectly, by himself or through any other person :

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter or other person to vote or refrain from voting at any election, or

to induce any voter or other person to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election, or to induce such voter or other person to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter or other person having voted or refrained from voting or having voted or refrained from voting for or against any particular person or for or against any proposition submitted to voters, or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his or any other name upon the registry of voters; or

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place of employment to or for any voter, or to or for any other person, in order to induce such voter or other person to vote or refrain from voting at any election, or to induce any voter or other person to vote or refrain from voting at such election, for or against any particular person or persons, or for or against any proposition submitted to voters, or to induce any voter or other person to place or cause to be placed or refrain from placing or causing to be placed his or any other name upon a registry of voters; or

3. Gives, offers or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or

5. Procures or engages or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement the election of any person, or the vote of any voter, at such election; or

6. Advances or pays or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of a felony, punishable by imprisonment for not less than one year, or more than five years, and in addition forfeits any office to which he may have been elected at the election with reference to which such offense was committed, and becomes incapable of holding any public office under the constitution and laws of the state for a period of five years after such conviction. (41 *o*, *Penal Code*.)

Receiving consideration for franchise.—"Any person who, directly or indirectly, by himself or through any other person:

"1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself, or any other person for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting or for voting or for agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or

"2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such an election, or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other

person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any other person to vote or refrain from voting for or against any particular person or persons at such election or for or against any proposition submitted to the voters at such election, is guilty of a felony, punishable by imprisonment for not less than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction; and the county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of such clerks." (§ 41*p*, *Penal Code*.)

Testimony upon prosecution. — "A person offending against any section of this title is a competent witness against another person so offending, and may be compelled to attend and testify on any trial, hearing or proceeding or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. A person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution." (§ 41*q*, *Penal Code*.)

Bribery or intimidation of elector in military service of the United States. — "Any person who, directly or indirectly, by bribery, menace or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercised such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state; and upon conviction thereof shall thereafter be ineligible to any office therein." (§ 41*s*, *Penal Code*.)

Duress and intimidation of voters.— “ Any person or corporation who directly or indirectly :

“ 1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or persons or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter ; or,

“ 2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election ; or,

“ 3. Being an employer, pays his employe the salary or wages due in ‘ pay envelopes,’ upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any hand bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.” (§ 411, *Penal Code*.)

Political assessments.—"Any person who,

"1. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly uses his authority or official influence to compel or induce any other officer or employe of the state or a political subdivision thereof, to pay or promise to pay any political assessments; or,

"2. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly gives, pays or hands over to any other such officer or employe any money or other valuable thing on account of or to be applied to the promotion of his election, appointment or retention in office, or makes any promise, or gives any subscription to such officer or employe to pay or contribute any money or other valuable thing for any such purpose or object; or

"3. Being such an officer or employe and having charge or control of any building, office or room occupied for any purpose of the state or of a political subdivision thereof, consents that any person enter the same for the purpose of making, collecting, receiving or giving notice of any political assessment; or

"4. Enters or remains in any such office, building or room, or sends or directs any letter or other writing thereto, for the purpose of giving notice of demanding or collecting, or being therein, gives notice of, demands, collects or receives, any political assessment;

"5. Prepares or makes out, or takes any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any such officer or employe; or

"6. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employe, is guilty of a misdemeanor." (§ 41v, *Penal Code*.)

Corrupt use of position or authority.—"Any person who,

"1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any

person in securing, any office or public appointment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited or of any other person, shall be given or used in behalf of any candidate, officer or party or upon any other corrupt condition or consideration; or

"2. Being a public officer or employe of the state or a political subdivision having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employe, or promises or threatens to use, any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employe, or on account of the vote or political action of such officer or employe; or

"3. Makes, tenders or offers to procure, or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof, or

"4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both." (§ 41w, *Penal Code*.)

§ 41-l. **Illegal voting.**—Any person who:

1. Knowingly votes or offers or attempts to vote at any election, primary election or town meeting, when not qualified; or

2. Procures, aids, assists, counsels or advises any person to go or come into any town, ward or election district, for the purpose of voting at any election, primary election or town meeting, knowing that such person is not qualified; or

3. Votes or offers or attempts to vote at an election, primary election or town meeting more than once; or votes or offers or attempts to vote at an election, primary election or town meeting

under any other name than his own; or votes or offers or attempts to vote at an election, primary election or town meeting in an election district or from a place where he does not reside; or

4. Procures, aids, assists, commands or advises another to vote or offers or attempts to vote at an election, primary election or town meeting, knowing that such person is not qualified to vote thereat; or

5. Being an inhabitant of another state or county, votes or offers or attempts to vote at an election, primary election or town meeting in this state or permits, aids, assists, abets, procures, commands or advises another to commit or attempt any act named in this section is guilty of felony, punishable by imprisonment in a state prison not less than one nor more than five years.

6. An offer or attempt under this section shall be deemed to be the doing of any act made necessary by the election law preliminary to the delivery of a ballot to an elector or the deposit of the ballot in the ballot box. (§ 411, *Penal Code*.)

§ 41aa. Any person who, being a police commissioner or an officer or member of any police force in this state, either

1. Uses or threatens or attempts to use his official power or authority, in any manner, directly or indirectly, in aid of or against any political party, organization, association or society, or to control, affect, influence, reward or punish, the political adherence, affiliation, action, expression or opinion of any citizen; or

2. Appoints, promotes, transfers, retires or punishes an officer or member of a police force, or asks for or aids in the promotion, transfer, retirement or punishment of an officer or member of a police force, because of the party adherence or affiliation of such officer or member, or for or on the request, direct or indirect, of any political party, organization, association or society, or of any officer, member of committee or representative official or otherwise of any political party, organization, association or society; or

3. Contributes any money, directly or indirectly, to, or solicits, collects or receives any money for, any political fund, or joins or becomes a member of any political club, association, society or committee;

Is guilty of a misdemeanor. (§ 41aa, *Penal Code*, added by chap. 529, L. 1899.)

CITIZENSHIP.

Citizens, who are.—“All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.” (*U. S. R. S.*, 2d ed., § 1992. *tit.* 25.)

“All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were and may be, at the time of this birth, citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.” (§ 1993, *same tit.*)

“All persons born in the district or country formerly known as the Territory of Oregon and subject to the jurisdiction of the United States, on the eighteenth May, eighteen hundred and seventy-two, are citizens in the same manner as if born elsewhere in the United States.” (*U. S. R. S.*, 2d ed., § 1995, *tit.* 25.)

Citizens, when married women are.—“Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.” (§ 1994, *same tit.*) [*See, also, § 2168 of tit. 30, U. S. R. S.*, 2d ed., *as to widows and children of aliens, who have complied with the first condition of § 2106 of said R. S.*]

Deserters incapable of holding office under the United States, or exercising any right of citizenship.—“All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost-marshal within sixty days after the issuance of the proclamation by the president, dated the eleventh day of March, eighteen hundred and sixty-five, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of

trust or profit under the United States, or of exercising any right of citizens thereof." (§ 1996, *same tit.*)

Faithful service until April 19, 1865, deemed to work removal of disability under preceding section.—"No soldier or sailor, however, who faithfully served according to his enlistment until the nineteenth day of April, eighteen hundred and sixty-five, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office in consequence of his desertion." (§ 1997, *same tit.*)

Desertion hereafter to work loss of citizenship.—"Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeitures of section nineteen hundred and ninety-six." (*U. S. R. S.*, 2d ed., § 1998, *tit.* 25.)

Rights of expatriation maintained.—"Whereas the right of expatriation is a natural and inherent right of all people indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and whereas in the recognition of this principle, this government has freely received emigrants from all nations and invested them with the rights of citizenship; and whereas it is claimed that such American citizens with their descendants are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed. Therefore, any declaration, instruction, opinion, order or decision of any officer of the United States which denies, restricts, impairs or questions the right of expatriation is declared inconsistent with the fundamental principles of the republic."

Voters to be ascertained.—“Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established!” (§ 4, art. 2, *State Constitution*.)

Citizenship of persons born in the United States.—“Persons born in the United States, although of alien parentage, are citizens of the United States.” (*Opinion of Attorney-General*.)

Citizenship of foreign-born child of a mother who is a citizen.—“The child born in a foreign country of a mother who is a citizen of the United States is not himself a citizen by reason of his mother’s citizenship.” (*Opinion of Attorney-General*.)

Citizenship of children born abroad of American parents — expatriation.—“Children born abroad of American parents are American citizens. The right of expatriation is recognized by law.” (*Opinion of Attorney-General*.)

NATURALIZATION.

Aliens, how naturalized.—“An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise :

“1. He shall declare on oath, before a circuit or district court of the United States or a district or supreme court of the territories, or a court of record of any of the states having common-law jurisdiction, and a seal and clerk, two years, at least, prior to his admission, that it is *bona fide* his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and, particularly, by name, to the prince, potentate, state or sovereignty of which the alien may be at the time a citizen or subject.

“2. He shall at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the constitution of the United States, and that he absolutely and entirely renounces and adjures all allegiance and fidelity to every foreign prince, potentate, state or sovereignty, and, particularly, by name, to the prince, potentate, state or sovereignty of which he was before a citizen or subject ; which proceedings shall be recorded by the clerk of the court.

“3. It shall be made to appear to the satisfaction of the court admitting such alien that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the constitution of the United States and well disposed to the good order and happiness of the same ; but the oath of the applicant shall in no case be allowed to prove his residence.

“4. In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came he shall,

in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

" 5. Any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application within the state or territory, where such court is at the time held; and on his declaring on oath that he will support the constitution of the United States, and that he absolutely and entirely renounces and adjures all allegiance and fidelity to any foreign prince, potentate, state or sovereignty and particularly by name to the prince, potentate, state or sovereignty whereof he was before a citizen or subject; and also, on its appearing to the satisfaction of the court, that during such term of two years he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien applying for admission to citizenship, has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings required in this condition to be performed in the court, shall be recorded by the clerk thereof.

" 6. Any alien who was residing within the limits and under the jurisdiction of the United States, between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of

the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States. (Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the declaration of intention to become a citizen of the United States, required by section two thousand one hundred and sixty-five of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in said section two thousand one hundred and sixty-five; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts made in said section." (*U. S. R. S., 2d ed., 2165, tit. 30.*)

Aliens honorably discharged from the military service.—

"Any alien of the age of twenty-one years and upwards, who has enlisted, or may enlist, in the armies of the United States, either the regular or volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by

competent proof of such person's having been honorably discharged from the service of the United States." (*U. S. R. S.*, 2d ed., § 2166, *tit.* 30.)

Certain persons arriving in their minority may be naturalized.— "Any alien, being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare on oath, and prove to the satisfaction of the court, that for two years next preceding it has been his *bona fide* intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization." (*U. S. R. S.*, 2d ed., § 2167, *tit.* 30.)

Aliens of African nativity.— "The provisions of this title shall apply to aliens of African nativity and to persons of African descent." (§ 2169, *same tit.*)

Uninterrupted residence.— "No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States." (§ 2170, *same tit.*) [*For provisions respecting an alien whose country is at war with the United States at the time of his application to become a citizen, see § 2171 of the U. S. R. S.*]

Minor children of persons naturalized.— "The children of persons who have been duly naturalized under the law of the United States, or who, previous to the passing of any law on that subject by the government of the United States, may have become citizens of any one of the states, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of

the United States, shall, though born out of the limits and jurisdiction of United States, be considered as citizens thereof ; but no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the revolutionary war, shall be admitted to become a citizen without the consent of the legislature of the state in which such person was proscribed." (*U. S. R. S., 2d ed., § 2172, tit. 30.*)

When seamen, being foreigners, may become citizens.—

" Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of declaration of his intention to become a citizen, be admitted a citizen of the United States ; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of congress notwithstanding ; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen." (§ 2174, *same tit.*)

Procuring fraudulent certificates of naturalization in order to vote.—" Any person who knowingly and willfully procures from any court, judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election, when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise, is guilty of a felony." (§ 41x, *Penal Code.*)

Instructions concerning naturalization.—The applicant must have resided in the United States for the continued term of five years next preceding his admission, and one year, at least, within the state or territory

where the court is held that admits him. Two years, at least, before his admission he must declare, on oath, or affirmation, before the supreme court or a county court of the state, or before a circuit or district court of the United States, his intention to become a citizen, etc. If the applicant was a minor, under the age of eighteen years when he came to the country, this previous declaration of intention is dispensed with, and he is entitled to be admitted after he has arrived at the age of twenty-one years, if he has resided five years in the United States, including the three years of his minority, and has continued to so reside up to the time when he makes his application. By act of congress, approved July seventeen, eighteen hundred and sixty-two, aliens of the age of twenty-one years and upward, who have enlisted in the armies of the United States, in the regular or volunteer forces, and have been honorably discharged, are entitled to become citizens of the United States upon petition, without previous declaration or intention. Aliens, under such circumstances, are not required to prove more than one year's residence within the United States. This act materially alters the previous laws, but does not in any manner do away with the necessity of procuring regular naturalization papers. By act of congress June seven, eighteen hundred and seventy-two, seamen of foreign birth, who have declared intention to become citizens, may be naturalized after three years' service on merchant ships.

State Naturalization Law.

(Chapter 927, Laws of 1895.)

SECTION 1. Courts having jurisdiction.—The supreme court in the respective judicial districts and the county courts in the respective counties of this state shall have jurisdiction of declarations of intention, and of applications of aliens to become citizens of the United States; no other court or courts now or hereafter established by this state shall entertain a primary or final declaration or application made by or on behalf of an alien to be admitted to become a citizen of the United States, or have or entertain jurisdiction of the naturalization of an alien; nor shall any clerk of any such court or courts receive any such declaration, application or papers.

§ 2. Primary declarations.—Primary declarations of intention of aliens to become citizens of the United States may be recorded and filed in the supreme court in the respective judicial districts and the county courts in the respective counties of this state at any time, and the requisite and prescribed oath administered by the clerk of the court at the time of such recording and filing; a complete record of each and every of the said declarations shall be entered in the proper docket of the court by the clerk thereof, which said record the alien shall subscribe, or cause to be subscribed, and he shall also add, or cause to be added, in writing, the street and number of the house in which he resides, and the name of the city, town, village or other place where such residence is situated; provided, that where the street and number, as required by the provisions of this section of this act, cannot be given, the place of residence shall be described with sufficient accuracy for identification.

§ 3. Final application of aliens.—Final applications of aliens to be admitted to become citizens of the United States, made in any of the courts of this state in which, by the provisions of this act, such applications may be made, may be filed in term time or during vacation; but final

action thereon shall be had only on stated days, to be fixed by rule of the respective courts; every application shall be entered on the docket of the court on the day on which the application shall be made; such application shall be in the form of a petition, subscribed and verified by the oath of the applicant, and shall be filed in the court to which it is presented at least fourteen days before final action thereon shall be had; the petition herein provided for shall state the place and country of the birth of the petitioner and the time and place of his arrival in the United States, the grounds on which he claims the right to be naturalized, and shall set forth his name in full, his age and occupation, the name of the street and the number of the house in which he resides, and the name of the city, town, village or other place in which such residence is situated, and the name of the person or the name of the persons whom the said applicant intends to summon as witnesses at the final hearing upon his said application, together with the street and number of the residence or residences of such witnesses; simultaneously with the presentation and filing of the petition herein prescribed and provided for, there shall also be filed an affidavit of a person, who must be a citizen of the United States, and who may or may not be a person whom the petitioner intends to summon as a witness at the final hearing upon his application to be admitted to become a citizen of the United States, which said affidavit shall set forth the full name, residence and occupation of the affiant, and that the affiant is a citizen of the United States and is personally well acquainted with the petitioner, and that the said petitioner will have resided for five years within the United States, and one year within the state of New York, immediately preceding the return day of the petition, and that during that time the said petitioner has behaved as a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same, provided that in applications made pursuant to sections two thousand one hundred and sixty-six and two thousand one hundred and seventy-four of the revised statutes of the United States, it shall be sufficient for the affiant to swear to the length of residence or service

required by said sections respectively, and in applications made pursuant to section two thousand one hundred and sixty-seven of the revised statutes of the United States, and any amendments thereof, the affiant shall also declare his belief, with the grounds therefor, that for the portion of the two years next preceding the return day of the said petition that has elapsed at the time of its presentation, it has been bona fide the intention of the petitioner to become a citizen of the United States; provided, that in applications where the street number, as required by the provisions of this section of this act, cannot be given the place or places of residence shall be described with sufficient accuracy for identification; and provided further, that none of the provisions and requirements of this act shall be deemed to dispense with, nor shall they or any of them dispense with, the evidence and proofs, or other requirements, provided for and required in cases of naturalization under, in accordance with, and by virtue of the provisions of the revised statutes of the United States and the laws of congress.

§ 4. Notice of application.— Every person who may or shall hereafter make application in any of the courts of this state, in which by the provisions of this act such applications may be made, to be admitted to become a citizen of the United States, shall give notice in writing of his application to the clerk of the city, town, village or other place where he resides, or, if there be no clerk, then to the officer or person performing similar duties in such place of his residence, at least fourteen days before the final hearing upon his application, as aforesaid, which said notice shall contain his full name, age, occupation, residence and the name of the court in which his said petition has been filed and is pending; it shall be the duty of such clerk, or other officer or person, to make and preserve a complete record of all such notices in a form convenient for public inspection, and to give each applicant who has given such notice a certificate that the provisions of this section of this act have been complied with, and this certificate shall be filed by the said petitioner in the court in which his said petition is filed and pending determination before final action thereon shall be taken by the court.

§ 5. Posting of notice.—The clerk, or other officer or person performing similar duties, of the city, town, village or other place of the applicant's residence, shall, within seven days from the receipt of the notice prescribed in the preceding section, post in at least two public places in such city, town, village, or other place, the date of the receipt of the notice, the name of the applicant, his age, occupation, residence and court in which his petition is pending, on lists with blank forms containing the following headings:

Date of receipt of notice.	Name.	Age.	Occupation.	Residence.	Court in which petition is pending.

§ 6. Record of final application.—A record of every final application to be admitted to become a citizen of the United States shall be kept by the clerk of the court in which such application shall be made, and shall be open to the inspection of the public, at reasonable times and upon proper demand; such record shall contain the names of all applicants, arranged alphabetically according to their surnames, and also the residences of the said applicants; it shall further state the nationality of each applicant and the form and nature of the application, whether based upon a preliminary declaration of intention or upon a petition founded upon and made in accordance with the provisions and requirements of section two thousand one hundred and sixty-seven of the revised statutes of the United States, and any amendments thereof, or otherwise; and it shall further state the name of the witness, or the names of the witnesses, summoned by the said applicant and appearing upon his final application to be admitted to become a citizen of the United States, with the residence or residences of such witness or witnesses; a return shall be made annually by

the several clerks, on or before the first day of February of each year, to the secretary of state, of the full name and residence of each and every person so naturalized and admitted to become a citizen of the United States during the year prior to the first day of the preceding January, together with the date of such naturalization and admission to citizenship; and the returns so made shall be filed and kept by the secretary of state in a form convenient for reference. Copies of such returns, certified by the secretary of state under his official seal, shall be prima facie evidence of the facts therein stated.

§ 7. Fees of officer.— The fees of the clerk or other officers or persons of cities, towns, villages or other places for the recording of the notice and the issuing of the certificate provided for under the provisions of the fourth and fifth sections of this act, shall be the sum of fifty cents for each application.

§ 8. Penalty for violation.— Any clerk or other person who records or files any declaration or application in any case of naturalization, or issues any certificate in any case of naturalization, in violation of the provisions of this act, or any of them, shall be punished by a fine of one hundred dollars.

§ 9. Payments by political committees prohibited.— No political committee or committee of any political party, and no person who has received or accepted a nomination for any political office, shall make any payment or promise of payment of money to or on behalf of any person for fees for the primary or final declaration or application for naturalization, or for services as attorney or counsel, or as agent or otherwise in assisting or enabling any person or persons to make such declaration or application; whoever violates any of the provisions of this section of this act shall be punished upon conviction thereof, by a fine of not less than five hundred dollars nor more than one thousand dollars.

Town Meetings, and the Election and Tenure of Town Officers.

(Article 2, Town Law, Chapter 569, Laws of 1900.)

§ 10. **Time and place of biennial town meeting.**—The electors of a town shall, biennially, on the second Tuesday of February, assemble and hold meetings at such place in the towns as the electors thereof at their biennial town meeting shall, from time to time, appoint. If no place shall have been fixed for such meeting, the same shall be held at the place of the last town meeting in the town or election district, when town meetings of a town are held in election districts. The board of supervisors of any county may, by resolutions, fix a time when the biennial town meetings in such county shall be held, which shall be either on some day between the first day of February and the first day of May, inclusive, or on the first Tuesday after the first Monday in November of an odd numbered year. (*Thus amended by chap. 391, L. 1901, and chap. 339, L. 1903.*)

§ 11. **Changing place of biennial town meeting.**—“The electors of a town may upon the application of fifteen electors therein, to be filed with the town clerk twenty days before a biennial town meeting is to be held, determine at such meeting, by ballot, where future town meetings shall be held. Where town meetings in any town are held in separate election districts, the

electors of each district may, at a biennial town meeting, determine by resolution where its future town meetings shall be held. If any place so designated shall thereafter and before the close of the next biennial town meeting be destroyed, or for any reason become unfit for use, or cannot for any reason be used for such purpose, the town board shall forthwith designate some other suitable place for holding such town meeting in said town or election district as the case may be. The provisions of this section shall not apply to towns in counties where the town meetings are held at the same time as general elections." (*Thus amended by L. 1898, chap. 363.*)

***§ 12. Election of officers.**—"There shall be elected at the biennial town meeting in each town, by ballot, one supervisor, one town clerk, two justices of the peace, three assessors, one collector, one or two overseers of the poor, one, two or three commissioners of highways, and not more than five constables; if there shall be any vacancies in the office of justice of the peace of any town at the time of holding its biennial town meeting, persons shall then also be chosen to fill such vacancies, who shall hold their offices for the residue of the unexpired term for which they are respectively elected. At town meetings in towns held at the same time as general elections, the names of all candidates for town offices shall be voted for in the same manner and on the same ballot as candidates for other offices voted for thereat. At such town meetings no person shall be allowed to vote for candidates for town offices who is not registered and entitled to vote at such

*This section was also amended by chap. 349, L. 1901.

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general election." (*Thus amended by chap. 536, L. 1901, and chap. 57, L. 1903.*)

[Town officers are to be elected by town electors or appointed by town authorities. Const., art. 10, § 2, *ante*. Officers to hold over and continue to discharge the duties of their offices after the expiration of their terms until their successors shall be chosen and qualified. Pub. Off. L., § 5, *ante*. Nominations are to be made as prescribed by §§ 56, 57 of the Election Law, *ante*. Certificates of nomination are to be filed with town clerk as prescribed by §§ 58, 59 of Election Law, *ante*. Registration of electors not required for town elections. § 33, subd. 4, Election Law, *ante*. But when town meetings are held at same time as general elections no person shall be allowed to vote who is not registered. See last sentence of above section. Ballots are to be prepared as prescribed by §§ 81, 83, Election Law, *ante*. The expenses of printing ballots, providing furniture and stationery are a charge upon the town. § 18, Election Law, *ante*.]

***§ 13. Term of office.**—Supervisors, town clerks, assessors, commissioners of highways, collectors, overseers of the poor, inspectors of election and constables, when elected, shall hold their respective offices for two years. But whenever there is or shall be a change in the time of holding town meetings in any town, persons elected to such offices at the next biennial town meeting after such change shall take effect, shall enter upon the discharge of their duties at the expiration of the term of their predecessors, and serve until the next biennial town meeting thereafter or until their successors are elected and have qualified. Whenever the time of holding town meetings in any town is changed to the first Tuesday after the first Monday in November, except when changed as provided in section forty-three of this chapter, the town officers elected thereat shall take office on the first day of January succeeding their election. Except that the collector elected at such town meeting in nineteen hundred and three and biennially thereafter shall take office immediately upon his election and qualification as prescribed by law. All town officers hereafter elected at a biennial town meeting held at any time be-

* Section also amended by chap. 191, L. 1901.

tween the first day of February and the first day of May shall, in case a board of supervisors thereafter adopts a resolution changing the time of holding such biennial town meetings to the first Tuesday after the first Monday in November hold office until the first day of January succeeding the biennial town meeting first held pursuant to such a resolution. But the collector in each such town shall complete the duties of his office in respect to the collection of taxes, and the payment and return thereof, upon any warrant received by him during his term of office, notwithstanding the election of his successor. (*Thus amended by chap. 391, L. 1901.*)

§ 14. **Justice of the peace.**—"There shall be four justices of the peace in each town, divided into two classes, two of whom shall be elected biennially. Such justices shall hold office for a term of four years commencing on the first day of January succeeding their election." (*Thus amended and renumbered by Laws 1897, chap. 481.*)

The electors of the several towns shall at their annual town meeting, or at such other time and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. (Const., § 17, art. 4, *ante.*)

§ 15. **Commissioners of highways.**—The electors of such town may, at their biennial town meeting, determine by ballot whether there shall be elected in their town one, two or three commissioners of highways. Whenever any town shall have determined upon having two or three commissioners of highways and shall desire to have but one, the electors thereof may do so by a vote by ballot taken at a biennial town meeting, and when such proposition shall have been adopted no other commissioner shall be elected or appointed until the term or terms of those in office at the time of adopting the proposition shall expire or become va-

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cant and they may act until their terms shall severally expire or become vacant as fully as if two or three continued in office. When there shall be but one commissioner of highways in any town, he shall possess all the powers and discharge all the duties of commissioners of highways as prescribed by law. In towns of less than two square miles in area, where five-sixths of the territory shall consist of an incorporated village or villages, the office of highway commissioner is hereby abolished and the powers and duties heretofore performed by him shall devolve upon the town board of such town together with such further power and authority over highways, streets, and bridges as are now possessed by or that may be hereafter granted to boards of trustees of villages of the third class. The provisions of this act shall not affect or abridge the term of office of any highway commissioner elected prior to the passage of this act. (*Thus amended by L. 1901, chap. 583, and chap. 57, L. 1903.*)

§ 16. **Overseers of the poor.**—"The electors of each town may, at their biennial town meeting, determine by resolution whether they will elect one or two overseers of the poor, and the number so determined upon shall be thereafter biennially elected for a term of two years. Whenever any town shall have determined upon having two overseers of the poor, the electors thereof may determine by a resolution at a biennial town meeting, to thereafter have but one, and if they so determine thereafter no other overseer shall be elected or appointed, until the term of the overseer continuing in office at the time of adopting the resolution shall expire or become vacant, and the overseer in office may continue to act until his term shall expire or become vacant. The electors of any town may, at any biennial or regularly called special town meeting on the application of at least twenty-five resident taxpayers whose names appear upon the then last preceding town assessment-roll, adopt by ballot a resolution that there shall be appointed in and for such town one overseer of the poor. If a majority of the ballots so cast shall be in favor of appointing an overseer of the poor, no overseer of the poor shall thereafter be elected in such town except as hereinafter provided; and the overseers of the poor of such town elected at the town meeting at

which such resolution is adopted or who shall then be in office shall continue to hold office for the terms for which they were respectively chosen; and within thirty days before the expiration of the term of office of such elected overseer whose term expires latest, the town board of such town shall meet and appoint one overseer of the poor for such town who shall hold office for one year from the first day of May next after his appointment; and annually in the month of April in each year thereafter an overseer of the poor shall be appointed by the town board of such town for the term of one year from the first day of May next following such month of April. Each overseer of the poor so appointed shall execute and file with the town clerk an official undertaking in such form and for such sum as the town board may by resolution require and approve. An overseer of the poor, so appointed, shall not hold any other town office during the term for which he is so appointed, and if he shall accept an election or appointment to any other town office he shall immediately cease to be an overseer of the poor. If a vacancy shall occur in the office of an overseer of the poor, so appointed, such vacancy shall be filled by the town board, by appointment for the balance of the unexpired term. The compensation of an overseer of the poor, so appointed, shall be fixed by the town board of such town, but shall not exceed, in any one year, the sum of one thousand dollars, and shall be a town charge. At any subsequent town meeting after the expiration of three years from the adoption of a resolution by any town to appoint an overseer of the poor, the electors of the town may determine by ballot to thereafter elect one or more overseers of the poor, and if they determine so to elect, then at the next biennial town meeting thereafter one or more overseers of the poor shall be elected in pursuance of the laws regulating the election of overseers of the poor, and the term or terms of the overseer or overseers first so elected shall commence upon the expiration of the term of office of the overseer of the poor last theretofore appointed in pursuance of law, and shall expire as though each such term commenced at the time of election; and their successors shall thereafter be elected in pursuance of law." *(Thus amended and renumbered by Laws 1897, chap. 481.)*

§ 18. **Ballots for full term and vacancies.**—"When the electors of any town are entitled to vote for a justice of the peace, to fill a vacancy caused otherwise than by expiration of term, each elector may designate upon his ballot the person intended for a full term and for a vacancy, and if there are two vacancies, they may be designated as the longer and the shorter vacancy; and if three vacancies, the longer, shorter and shortest vacancy, and each person having the greatest number of votes with reference to each designation, shall be deemed duly elected for the term or vacancy designated. If ballots are voted without designation, the first name on the ballot shall be deemed as intended for the full term of the office voted for, the second name for the longer vacancy, the third name for the shorter vacancy and the fourth name for the shortest vacancy. The provisions of this section shall apply to new towns erected; and officers to be elected in such towns, except for a full term, shall be deemed elected to fill vacancies. (*Thus amended and renumbered by Laws 1897, chap. 481.*)

§ 19. **Justices in new towns.**—If there be one or more justices of the peace residing in a new town, when erected, they shall be deemed justices of the peace thereof, and shall hold their offices according to their respective classes; and only so many shall be elected as shall be necessary to complete the number of four for the town. (*Thus amended and renumbered by Laws 1897, chap. 481.*)

§ 20. **When more than four justices may hold office.**—If by the erection of a new town, or the annexation of a part of one town to another, there shall at any time be more than four justices of the peace residing in any town, they shall hold and exercise their offices in the town in which they reside, according to their classes respectively; but on the expiration of the term of office of two or more justices, being in the same class, only one person shall be elected to fill the vacancy in that class. Whenever by the erection of a new town, or the annexation of a part of one town to another, any town shall be deprived of one or more justices of the peace, by their residences being within the part set off, the inhabitants of such town shall, at its next annual town meeting, supply the vacancy so produced in the classes to

which such justices belong. (*Thus renumbered by L. 1897, chap. 481,*)

§ 21. **Terms of office of town officers elected in spring of 1898 and 1899.**—There shall be elected at the town meeting in each town, in the spring of eighteen hundred and ninety-eight, one supervisor, one town clerk, one highway commissioner, one assessor, one collector, one or two overseers of the poor, not more than five constables and two inspectors of election for each election district, all of whom shall hold office for a term of one year. At the town meeting to be held in the spring of eighteen hundred and ninety-nine, all of such officers shall be elected in the manner and for the terms prescribed in this act. There shall be elected at the town meeting to be held in the spring of eighteen hundred and ninety-eight, one justice of the peace for a term of four years, beginning on the first day of January, eighteen hundred and ninety-nine. At the town meeting to be held in the spring of eighteen hundred and ninety-nine, there shall be elected two justices of the peace for a term of four years beginning on the first day of January, nineteen hundred; and at the biennial town meetings thereafter held there shall be elected two justices of the peace for a like term, beginning on the succeeding first day of January. At the town meeting to be held in the spring of eighteen hundred and ninety-nine, there shall be elected three assessors, two for a full term of two years and one for a term of one year beginning at the expiration of the term of office of the assessor, whose term will expire in the spring of nineteen hundred. At every biennial town meeting thereafter held, three assessors shall be elected for a term of two years. If in any town there are three commissioners of highways, there shall be elected at the town meeting to be held in the spring of eighteen hundred and ninety-nine, three commissioners of highways, two for a term of two years and one for a term of one year, beginning at the expiration of the term of office of the commissioner whose term will expire in the spring of nineteen hundred. At every biennial town meeting thereafter held in any such town, three commissioners of highways shall be elected for a term of two years. The provisions of this act shall not affect or abridge the term of office of any town officer elected prior to the passage of this act. In those towns where boards of town auditors have been established by law and are in existence

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at the time of holding of the annual town meeting in the spring of eighteen hundred and ninety-eight, the person elected to the office of town auditor, at the said annual town meeting in the spring of eighteen hundred and ninety-eight, whether so elected before or after the passage of this act shall hold office for the term of one year beginning at the expiration of the term of office of the auditor whose term of office will expire in the spring of eighteen hundred and ninety-eight. At the biennial town meeting held in the spring of eighteen hundred and ninety-nine, in those towns where boards of town auditors have been so established there shall be elected three town auditors, two for a full term of two years and one for a term of one year beginning at the expiration of the term of office of the auditor whose term of office will expire in the spring of nineteen hundred. At every biennial town meeting thereafter held in those towns where boards of town auditors have been established, as provided by law, three town auditors shall be elected, for a term of two years. (*Thus amended by chap. 474, L. 1898.*)

(Temporary section to secure uniformity in term of office.)

§ 22. **Powers of biennial town meetings.**—"The electors of each town may, at their biennial town meeting:

"1. Determine what number of constables, not exceeding five, and pound-masters shall be chosen in their town for the then ensuing two years;

"2. Elect such town officers as may be required to be chosen;

"3. Direct the prosecution or defense of all actions and proceedings in which their town is interested, and the raising of such sum therefor as they may deem necessary;

"4. Take measures and give directions for the exercise of their corporate powers;

"5. Make provisions and allow rewards for the destruction of noxious weeds and animals as they may deem necessary, and raise money therefor;

"6. Establish and maintain pounds at such places within their town as may be convenient;

"7. Direct public nuisances in their town, affecting the security of life and health, to be changed, abated or removed, and raise a sum of money sufficient to pay the expense thereof;

" 8. Make from time to time such prudential rules and regulations, as they may think proper, for the better improving of all lands owned by their town, in its corporate capacity, whether common or otherwise; for maintaining and amending partition or other fences around or within the same, and directing the time and manner of using such land;

" 9. Make like rules and regulations for ascertaining the sufficiency of all fences in such town and for impounding animals; impose such penalties on persons offending against any rule or regulation established by their town, excepting such as relate to the keeping and maintaining of fences, as they may think proper, not exceeding ten dollars for each offense, and apply the same, when recovered, in such manner as they may think most conducive to the interests of their town;

" 10. In towns bound to support their own poor, direct such sums to be raised, as they may deem necessary, for such purpose, and to defray any charges that may exist against the overseers of the poor in their town;

" 11. Determine any other question lawfully submitted to them;

" Every order or direction, and all rules and regulations made by any town meeting, shall remain in force until the same shall be altered or repealed at some subsequent town meeting." (*Thus amended and renumbered by L. 1897, chap. 481.*)

§ 23. **Special town meetings.**—"Special town meetings shall also be held whenever twenty-five taxpayers upon the last town assessment-roll shall, by written application addressed to the town clerk, require a special town meeting to be called, for the purpose of raising money for the support of the poor; or to vote upon the question of raising and appropriating money for the construction and maintenance of any bridges which the town may be authorized by law to erect or maintain; or for the purpose of determining in regard to the prosecution or defense of actions, or the raising of money therefor; or to vote upon any proposition which might have been determined by the electors of the town at the last annual town meeting, but was not acted upon thereat; or to vote upon or determine any question, proposition or resolution which may lawfully be voted upon or determined at a special town meeting. Special town meetings may also be held upon the like application of the supervisor, commissioner of high-

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ways, or overseers of the poor, to determine questions pertaining to their respective duties as such officers, and which the electors of a town have a right to determine. An application and notice heretofore made and given for a special town meeting to be hereafter held for a purpose not heretofore authorized by law, but now authorized by law, shall be as valid and of the same force and effect as if such purpose had been authorized by law at the time of such application and notice." (*Thus amended by Laws 1894, chap. 280, and renumbered by L. 1897, chap. 481.*)

Town meetings may vote sum of money for town house. § 190, Town Law. May vote for erection of lock-up. § 192, Town Law. May choose trustees of burial grounds. § 193.

§ 24. **Notices of town meetings.**—"No previous notice need be given of the biennial town meetings; but the town clerk shall, at least ten days before the holding of any special town meeting cause notice thereof under his hand, to be posted conspicuously in at least four of the most public places in the town; which notices shall specify the time, place and purposes of the meeting." (*Thus amended and renumbered by L. 1897, chap. 481.*)

Notice of the submission of questions must also be given, § 32, Town Law, *post*.

§ 25. **Presiding officers of town meetings.**—"The justices of the peace of each town shall attend every town meeting held therein, except where such town meetings are held at the time of the general elections, and such of them as shall be present shall preside at such meeting, and see that the same is orderly and regularly conducted, and shall have the like authority to preserve order, to enforce obedience and to commit for disorderly conduct, as is possessed by the board of inspectors at a general election. If there be no justice of the peace at such meeting, then such person as shall be chosen for that purpose by the electors present, shall preside and shall possess the like powers as justices; such person appointed shall take the constitutional oath of office, before entering upon his duties as such presiding officer." (*Thus amended by L. 1898, chap. 363.*)

§ 26. **Clerk of meeting.**—"The town clerk last before elected or appointed, or, if he be absent, such person as shall be chosen by the electors present, shall be the clerk of such town meeting, except when held at the time of a general election, and shall

keep faithful minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by such meeting; such person chosen by the electors present shall take the constitutional oath of office before entering upon his duties as such clerk." (*Thus amended by L. 1898, chap. 363.*)

Town clerk to perform duties similar to ballot and poll clerks at general election. At town meetings held at same time as general elections, the election officers of election districts are to serve.

§ 27. Duration of town meeting.—"Town meetings shall be kept open for the purposes of voting in the day-time only, between the rising and setting of the sun, and, if necessary, may be continued by a vote of the meeting during the next day, and no longer, and be adjourned to another place not more than one-fourth of a mile from the place where it was appointed." (*Thus renumbered by L. 1897, chap. 481.*)

§ 28. Challenges.—"If any person offering to vote at any town meeting or upon any question arising at such town meeting shall be challenged as unqualified, the presiding officers shall proceed thereupon in the manner prescribed in the general election law when challenges are made, which law, with its penalties, is made applicable thereto, and no person whose vote shall have been received upon such challenge shall be again challenged upon any other question arising at the same town meeting." (*Thus renumbered by L. 1897, chap. 481.*)

§ 29. Minutes of proceedings.—"The poll-list and minutes of the proceedings of every town meeting, subscribed by the clerk of such meeting, and by the officers presiding, shall be filed in the office of the town clerk within two days after such meeting and there preserved." (*Thus renumbered by L. 1897, chap. 481.*)

(Ballot boxes used at such town meetings and all ballots voted except the void and protested ballots, and a statement of the number of ballots in such boxes are to be deposited with the town clerk. § 111, Election Law, *ante*. Void and protested ballots are to be enclosed in sealed package, regularly endorsed and filed with minutes of secretary. § 111, Election Law, *ante*.)

§ 30. Transaction of business not requiring a ballot.—"The business of the towns which requires a vote of the people otherwise than by ballot shall be commenced at twelve o'clock noon of

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the day of the annual town meeting and completed without adjournment. No question involving the expenditure of money shall be introduced after two o'clock in the afternoon of the same day. All questions upon motion made at town meetings shall be determined by the majority of the electors voting, and the officers presiding at such meeting shall ascertain and declare the result of the votes upon each question." (*Thus renumbered by L. 1897, chap. 481.*)

§ 31. **Votes to expend over five hundred dollars.**—All votes in town meetings upon any proposition to raise or appropriate money or incur any town liability exceeding five hundred dollars shall be by ballot; if five hundred dollars or less may be viva voce, unless ballot is required by the law authorizing the expenditure. An elector of a town shall not be entitled to vote by ballot upon any proposition for the raising or appropriation of money, or the incurring of any town liability, unless he or his wife is the owner of property in the town, assessed upon the last preceding assessment roll thereof. (*Thus amended by chap. 598, L. 1901.*)

§ 32. **Notice of propositions to be determined by ballot.**—"No proposition or other matter than the election of officers, shall be voted upon by ballot at any town meeting, unless the town officers or other persons entitled to demand a vote of the electors of the town thereon, shall at least twenty days before the town meeting, file with the town clerk a written application, plainly stating the question they desire to have voted upon, and requesting a vote thereon at such town meeting. When town officers, as such, make the application for a vote to raise money for purposes pertaining to their duties, they shall file with their application a statement of their account to date, with the facts and circumstances which, in their opinion, make the appropriation applied for necessary, and their estimation of the sum necessary for the purpose stated, which statement may be examined by any elector of the town, and shall be publicly read by the town clerk at the meeting when and where the vote is taken, at the request of any elector. The town clerk shall, at the expense of his town, give at least ten days' notice, posted conspicuously in at least four of the most public places in town, of any such proposed question, and that a vote will be taken by ballot at the town meeting mentioned. He shall also, at the expense of his town, provide a ballot box, properly labeled, briefly indicating the question to be voted upon, into which all ballots voted upon the question indicated shall be deposited. He shall also prepare and have at the town meeting a sufficient number of written or

printed ballots, both for and against the question to be voted upon, for the use of the electors. The vote shall be canvassed, the result determined and entered upon the minutes of the meeting, the same as votes given for town officers." (*Thus renumbered by Laws 1897, chap. 481.*)

Town clerk to furnish ballots, §§ 82, 86, Election Law, *ante*. Form of ballots, § 83, Election Law, *ante*. Separate ballot boxes to be provided for questions submitted, § 16, Election Law, *ante*.

§ 33. **Proclamation of opening and closing polls.**—"Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, and proclamation shall in like manner be made of each adjournment and of the opening and closing of the polls until the election be ended." (*Thus amended by Laws 1897, chap. 481.*)

§ 34. **Erection or discontinuance of pounds.**—"Whenever the electors of any town shall determine at an annual town meeting, to erect one or more pounds therein, and whenever a pound shall now be erected in any town, the same shall be kept under the care and direction of a pound-master, to be elected or appointed for that purpose. The electors of any town may, at annual town meeting, discontinue any pounds therein." (*Thus renumbered by Laws 1897, chap. 481.*)

§ 35. **Election of pound-masters.**—"Pound-masters may be elected either (1) by ballot; (2) by ayes or noes, or (3) by the rising or dividing of the electors, as the electors may determine." (*Thus renumbered by L. 1897, chap. 481.*)

§ 36. **Balloting; electors in incorporated village when not to vote on highway questions.**—"When the electors vote by ballot, except in towns where the biennial town meetings are held at the time of general elections, all the officers voted for shall be named in one ballot, which shall contain written or printed, or partly written or partly printed, the names of the persons voted for, and the offices to which such persons are intending to be elected, and shall be delivered to the presiding officers so folded as to conceal the contents, and shall be deposited by such officers in a box to be constructed, kept and disposed of, as near as may be, in the manner prescribed in the general election law. When any town shall have within its limits an incorporated village, consti-

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tuting a separate road district, exempt from the supervision and control of the commissioners of highways of the town, and from payment of any tax for the salary or fees of said commissioners, and from payment of any tax for the opening, erection, maintenance and repair of any highway or bridge of said town, without the limits of said village, no residents of such village shall vote at any biennial or special election in such town for any commissioner of highways for said town, nor for or against any appropriation for the opening, laying out, maintenance, erection or repair of any highway or bridge in said town, without the limits of said village. At the biennial elections in such towns, the names of candidates for the office of highway commissioner shall be printed on a different ballot from the one containing the names of candidates for other town offices. Such ballots shall be indorsed 'commissioner of highways,' and shall be deposited, when voted, in a separate ballot box, which also shall be marked 'commissioner of highways.' Such ballots and ballot box shall be furnished by the officers now charged by law with that duty at town elections. A poll list shall be kept by the clerk of the meeting on which shall be entered the name of each person voting by ballot." (*Thus renumbered by L. 1898, chap. 363.*)

All the provisions of art. 4 of Election Law, *ante*, relating to ballots, stationery, etc., applicable to town meetings.

§ 37. **Canvass of votes.**—At the close of the polls at any town meeting, the canvassers shall proceed to canvass the votes publicly at the place where the meeting was held. Before the ballots are opened they shall be counted and compared with the poll list, and the like proceedings shall be had as to ballots folded together, and difference in number as are prescribed in the general election law. The void and protested ballots, and the voted ballots other than void and protested, shall be preserved and disposed of by the inspectors in the manner provided by section one hundred and eleven of the election law. The result of the canvass shall be read by the clerk to the persons there assembled, which shall be notice of the election to all voters upon the poll list. The clerk shall also enter the result at length in the minutes of the proceedings of the meeting kept by him, and shall, within ten days thereafter, transmit to any person elected to a town office, whose

name is not on the poll list as a voter, a notice of his election." (Thus amended by chap. 168, L. 1899.)

Proceedings for canvass of vote under general election law, §§ 110, 112, Election Law, *ante*.

§ 38. **Town meetings in election districts.**—The electors of a town may determine by ballot at an annual or special town meeting on the written application of twenty-five electors, that town meetings shall thereafter be held in the several election districts of their town, to be therein conducted by the inspectors of election thereof, instead of the justices of the peace of the town; or may authorize the town board to divide such town into two or more joint election districts, as provided in this section. The town board of any town which has been so authorized may divide such town into two or more joint election districts, for the purpose of holding town meetings therein, but such districts shall be constituted by combining the election districts in such town. If the town board of any town shall divide such town into joint election districts in pursuance of this section, such board shall select from the inspectors of election for such town three inspectors residing therein, not more than two of whom shall belong to the same political party, for each of such election districts as so constituted. Such inspectors shall act at the first town meeting held in such districts thereafter. At the first town meeting held in such districts and annually thereafter, there shall be elected in each of such districts in the same manner, and with the same qualifications as inspectors are elected for a general election, three inspectors of election for such district. If a town shall hold its town meeting in more than one district, the inspectors of each of such districts shall appoint one poll clerk, and in the conduct of such meetings they shall have the same powers and duties as the justices of the peace and town clerk have at the annual town meetings presided over by them. No town officer shall be required to make or render any report, statement or abstract at a town meeting when held in separate or joint election districts. At the close of the polls, the inspectors shall forthwith publicly canvass the ballot cast, and, without postponement or adjournment, make a full and true statement of the whole number so cast for each and every candidate for an

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office balloted for, and of the whole number of votes for and against every question or proposition voted upon at such town meeting. The void and protested ballots, and the voted ballots other than void and protested, shall be preserved and disposed of by the inspectors in the manner provided by section one hundred and eleven of the election law. Such statement shall be made in the same form as statements by such inspectors of the votes cast at general elections, and shall be signed by the inspectors and delivered by one of their number, selected by them for that purpose, to the justices of the peace and town clerk of the town, who shall convene and receive the same at the office of the town clerk, on the day next following the town meeting, at ten o'clock in the forenoon. Such justices and clerk shall then and there recanvass such votes from the statements of the inspectors of the several separate or joint election districts so delivered to them, and thereupon appoint in writing additional inspectors of election, and read and enter the results in the same manner as required of them at the close of the canvass of a town meeting presided over by them. When the electors of a town have determined to hold their town meetings in separate or joint districts, they may again, upon the written application of twenty-five electors, at an annual town meeting, determine by ballot to return to the former system of holding but one poll at their town meetings, and thereupon their town meetings shall be held at but one polling place in said town, but such changes shall not be made oftener than once in five years. (*Thus amended by Laws 1899, chap. 168.*)

The powers and duties of inspectors of election are the same as at general elections, §§ 100-114, Election Law, *ante*.

§ 39. Transaction of business in separate election districts not requiring a ballot.—“Any proposition to be submitted to and voted upon by the electors of a town at any town meeting, which is not required to be voted upon by ballot, may be submitted to the electors of the town voting in separate or joint election districts of the town meeting, but the vote upon any such proposition shall be taken by a division of the electors present and voting thereon; and the inspectors shall count the number of electors so voting in favor of such proposition, and the number so voting

against the same, and shall enter in the statement of the result of the town meeting held in such district a statement of the proposition so voted upon, and the number of votes so cast in favor of and against the same, and certify with the statement that they are required to certify and return to the justices of the peace and town clerk of the town. No such proposition shall be so voted upon unless notice that such vote will be taken has been published by the town clerk, at least one week before the town meeting, in a newspaper published in the town, if any such is published therein, and such notice shall also be posted for the same length of time at the place where the poll of the town meeting is to be held, in each separate or joint election district, and shall be publicly read by the inspectors to the voters present before any such vote is taken. Any elector of the town may, by a written application filed with the town clerk at least ten days before the town meeting is to be held, require such notice to be given by the town clerk. Every such proposition shall be submitted to a vote, commencing at the hour of twelve, noon, and continuing until all such propositions have been voted upon, and every such proposition shall be submitted to the vote of the electors of the town at the poll of every separate or joint election district in the town." (*Thus renumbered by Laws 1897, chap. 481.*)

§42. Town meetings held at the time of general elections; canvass of votes.—If, in any town, the biennial town meeting is held at the same time as the general election, such town meeting shall be held in the election districts of such town, and be conducted by the inspectors of election thereof. At the close of the polls at any such town meeting, the inspectors shall proceed to canvass the votes for the candidates for the several town offices in the election districts where such town meeting was held, in the same manner as the votes for other candidates cast at the general election are canvassed. They shall make a statement of the whole number of votes cast for each candidate for a town office and deliver the same to one of the justices of the peace of the town, and on the Thursday succeeding such town meeting, such votes shall be recanvassed, the additional inspectors of election in each district shall be appointed, and the result of the election declared as provided by section thirty-eight of this chapter. In case of a contest or other proceeding in which the validity of

the election of a town officer in any such town, is in controversy, the ballots cast at any town meeting and election may be examined and recounted, as provided by law, in case of other officers elected at general elections. (*Thus amended by L. 1901, chap. 391.*)

Recanvass by town board.— The provisions of this section directing that votes for town officers cast at a biennial town meeting held at the same time as a general election "shall be recanvassed" on the Thursday succeeding such town meeting, when read in connection with such section 38 of the Town Law, do not permit the justices of the peace and the town clerk to make a recanvass to recount the vote; they must declare the result as it appears from the statements of it made by the inspectors of election, who by statute make the recanvass itself. (*Matter of Park, 37 Misc. 133; 74 N. Y. Supp. 915.*)

§ 43. Town may change date of holding town meeting.—A town may change the date of its town meeting to the first Tuesday after the first Monday in November, known as general election day, by adopting a proposition therefor at a regular town meeting. Such a proposition may be submitted by the town board on its own motion, and shall be submitted by such board on the written application of twenty-five taxable voters of the town. The proposition must be submitted, voted on, and the result canvassed as prescribed by section thirty-two. If it be adopted a certificate to that effect shall be filed by the town clerk within ten days thereafter in the office of the county clerk and also with the clerk of the board of supervisors. If the proposition be adopted the first town meeting shall be held on general election day in the next calendar year, and the terms of all officers, except justices of the peace elected on the day of the adoption of the proposition, shall expire on the day of such first meeting. Thereafter town meetings in such town shall be held biennially on general election day in the manner prescribed by this chapter, except that after five years from the first meeting, the town meeting may in like manner change from such general election to any other day authorized by law. The term of office of all officers, except justices of the peace, in a town which under this section changes its town meeting to general election day, shall be two years from the date of their election. (*Added by chap. 145, L. 1899.*)

§ 44. When women are qualified to vote.—A woman who possesses the qualifications to vote for town officers, except the qualification of sex, and who is the owner of property in the town assessed upon the last preceding assessment-roll thereof, is entitled to vote upon a proposition to raise money by tax or assessment. (*Added by chap. 509, L. 1901.*)

Qualification of Town Officers.

(Article III, Town Law, Chapter 569, Laws of 1890.)

§ 50. Eligibility of town officers.—"Every elector of the town shall be eligible to any town office, except inspectors of election shall also be able to read or write. But no county treasurer, superintendent of the poor, school commissioner, trustee of a school district, or United States loan commissioner shall be eligible to the office of supervisor of any town or ward in this state."

§ 51. Oath of office.—"Every person elected or appointed to any town office, except justice of the peace, shall before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, and such other oath as may be required by law, which shall be administered and certified by the officer taking the same without reward, and shall within eight days be filed in the office of the town clerk, which shall be deemed an acceptance of the office; and a neglect or omission to take and file such oath, or a neglect to execute and file, within the time required by law, any official bond or undertaking, shall be deemed a refusal to serve, and the office may be filled as in case of vacancy."

§ 52. Collector's undertaking.—"Every person elected or appointed to the office of collector, before he enters upon the duties of his office, and within eight days after he receives notice of the amount of taxes to be collected by him, shall execute an undertaking with two or more sureties, to be approved by the supervisor, to the effect that he will well and faithfully execute his duties as collector, pay over all moneys received by him, and account in the manner and within the time provided by law for all taxes upon the assessment-roll of his town delivered to him for the ensuing year, and shall deliver such undertaking to the supervisor of the town."

§ 53. **Filing and lien of collectors' undertaking.**—"The supervisor shall, within six days thereafter, file the undertaking with his approval indorsed thereon, in the office of the county clerk, who shall make an entry thereof in a book to be provided for the purpose, in the same manner as judgments are entered of record; and every such undertaking shall be a lien on all the real estate held jointly or severally by the collector or his sureties within the county at the time of the filing thereof, and shall continue to be such lien, until its condition, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied. Upon a settlement in full between the county treasurer and collector, a certificate of payment shall be executed in duplicate by the county treasurer, one copy to be delivered to the collector and one copy of such certificate shall be filed by the county treasurer in the office of the county clerk, and said county clerk shall then enter a satisfaction thereof in the book in which the filing of said bond is entered and opposite said entry of filing." (*Thus amended by Laws 1897, chap. 323.*)

§ 54. **Constable's undertakings.**—"Every person elected or appointed to the office of constable shall, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, execute in the presence of the supervisor or town clerk of the town, with at least two sufficient sureties, to be approved by such supervisor or town clerk, an undertaking to the effect that such constable and his sureties will pay to each and every person, who may be entitled thereto, all such sums of money as the constable may become liable to pay on account of any execution which shall be delivered to him for collection; and also pay each and every person for any damages which he may sustain from or by any act or thing done by such constable by virtue of his office. The supervisor or town clerk shall indorse on the undertaking his approval of the sureties therein named, and shall cause the same to be filed in the office of the town clerk within ten days thereafter."

§ 55. **Refusal to serve as overseer of highways or poundmaster.**—"If any person chosen or appointed to the office of overseer of highways or poundmaster shall refuse to serve, he shall forfeit to the town the sum of ten dollars."

§ 56. **Town officers to administer oaths.**—"Any town officer may administer any necessary oath in any matter or proceeding lawfully before him, or to any paper to be filed with him as such officer."

§ 57. **Certificate of election of justices.**—"The town clerk of each town shall, within ten days after the election of a justice of the peace has been declared, transmit to the clerk of his county a

certificate showing the result of such election under his hand, which shall be presumptive evidence of the facts therein certified."

(Thus amended by L. 1898.

§ 58. Justices' undertakings.— "Every justice of the peace elected or appointed in any of the towns or cities of this state, except the city of New York, and any city whose charter requires such officer to give a bond or undertaking, shall, before he enters upon the duties of his office, execute an undertaking with two sureties to be approved by the supervisor of the town, or the town clerk thereof where the justice of the peace is also supervisor of the town, or the common council of the city in which the justice shall reside, to the effect that he will pay over on demand, to the officer, person or persons entitled to the same, all moneys received by him by virtue of his office, and file the undertaking in the office of the clerk of the city or town in which he resides. Every justice shall also, on or before the fifteenth day of January next succeeding his election, file with the county clerk a certificate of the clerk of the city or town in which he resides, that he has filed such undertaking. Such justice of the peace shall take and subscribe before some officer authorized by law to administer oaths in his county, the constitutional oath of office, upon blanks to be furnished by the county clerk. Such oath shall be in duplicate, one of which shall be filed in the office of the county clerk and one in the office of the town clerk. If elected or appointed to fill a vacancy, at the time existing or in any new town, he shall file such undertaking and certificate and take the oath of office, and enter upon the duties thereof, within fifteen days after notice of his election or appointment. No justice of the peace shall take his oath of office until he shall have filed such certificate with the county clerk. *(Thus amended by chap. 398, L. 1901.)*

§ 60. Supervisor's undertaking.—"Every supervisor hereafter elected or appointed shall, within thirty days after entering upon his office, make and deliver to the town clerk of the town his undertaking, with such sureties as the town board shall prescribe, to the effect that he will well and faithfully discharge his official duties as such supervisor, and that he will well and truly keep, pay over and account for all moneys and property, including, the local school fund, if any, belonging to his town and coming into his hands as such supervisor; and such undertaking shall after its execution, be presented to the town board for their approval as to its form, and the

sufficiency of the sureties therein, and until the same shall be so approved, none of the moneys, books, documents, papers or property of the town shall be turned over or delivered to such supervisor elect."

§ 61. **Undertaking of commissioner of excise.**—"Each commissioner of excise shall, before he enters upon the duties of his office, execute an undertaking to be approved by the supervisor of his town, to the effect that he will pay over to the supervisor of his town, within thirty days after the receipt thereof, all moneys received by him as such commissioner of excise, which undertaking shall be delivered to the supervisor, and by him filed in the office of the town clerk within ten days thereafter."

§ 62. **Undertaking of overseer of the poor.**—"Every person elected or appointed overseer of the poor in any town shall, within ten days after being notified of his election or appointment, execute an undertaking with one or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge the duties of his office, and will pay according to law all moneys which shall come into his hands as such overseer, which undertaking shall be delivered to the supervisor and filed by him in the office of the town clerk within ten days thereafter."

§ 63. **Undertaking of commissioner of highways.**—"Every commissioner of highways shall, within ten days after notice of his election or appointment, execute an undertaking with two or more sureties, to be approved by the supervisor of his town, to the effect that he will faithfully discharge his duties as such commissioner, and within ten days after the expiration of his term of office, pay over to his successor all moneys remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner, which undertaking shall be delivered to the supervisor, and filed by him in the office of the town clerk within ten days thereafter."

§ 64. **Resignation of town officers.**—"Any three justices of the peace of a town may, for sufficient cause shown to them accept the resignation of any town officer of their town; and

whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk of the town."

§ 65. **Filling of vacancies.**—"When a vacancy shall occur or exist in any town office, the town board or a majority of them may, by an instrument under their hands and seals, appoint a suitable person to fill the vacancy, and the person appointed, except justices of the peace, shall hold the office until the next biennial town meeting. A person so appointed to the office of justice of the peace shall hold the office until the next biennial town meeting, unless the appointment shall be made to fill the vacancy of an officer whose term will expire on the thirty-first day of December next thereafter, in which case the term of office of the person so appointed shall expire on the thirty-first day of December next succeeding his appointment. The board making the appointment shall cause the same to be forthwith filed in the office of the town clerk, who shall forthwith give notice to the person appointed. A copy of the appointment of a justice of the peace shall also be filed in the office of the county clerk before the person appointed shall be authorized to act." (*Thus amended by Laws 1897, chap. 481.*)

§ 66. **Form of undertaking, and liability thereon.**—"Every undertaking of a town officer, as provided by this chapter or otherwise, must be executed by such officer and his sureties and acknowledged or proven and certified in like manner as deeds to be recorded, and the approval indorsed thereon. The parties executing such undertaking shall be jointly and severally liable, regardless of its form in that respect, for the damages to any person or party by reason of a breach of its terms."

§ 67. **County clerk to report omissions of town officers.**—"The clerk of each county shall make a report to the district attorney of the county, of all omissions by any town officer to make and transmit any returns or certificates, which by law they are required to make to such clerk, and the district attorney shall enforce the penalty, by law imposed upon the delinquent officer."

§ 178. **Compensation of town officers.**—Town officers shall be entitled to compensation at the following rates for each day actually and necessarily devoted by them to the service of the town in the duties of their respective offices, when no fee is allowed by law for the service, as follows:

1. [This subdivision provides for the compensation of town supervisors, town clerks, assessors, commissioners of highways, justices of the peace and overseers of the poor, and is therefore omitted.]

2. If a different rate is not otherwise established as herein provided, each inspector of election, ballot clerk and poll clerk is entitled to two dollars per day: but the board of supervisors may establish in their county a higher rate, not exceeding six dollars per day. (*Thus amended by chap. 292, L. 1900.*)

Chap. 594.

AN ACT to provide for the holding of town meetings and elections in counties of the state having a certain population.

Became a law April 28, 1898, with the approval of the Governor.

Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The next town meeting or election at which town officers shall be elected in any county of the state having a population of over one hundred and fifty thousand and less than one hundred and sixty thousand inhabitants, according to the state enumeration next preceding the passage of this act, shall be held on the first Tuesday after the first Monday in November in the year eighteen hundred and ninety-nine, and biennially thereafter at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting and election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the clerk of the county wherein such town is located, and if nominated by a political party, at least twenty days and not more than thirty days before such town meeting and election is held, or, if independent nominations at least fifteen days and not more than thirty days prior thereto. The ballots prepared by the county clerk shall include the names of all candidates nominated for town offices in any such towns. The county clerk shall apportion to and charge the several towns in any of such counties with their respective proportionate shares of the expense of the preparation and distribution of such ballots.

§ 2. Ballots for the submission of questions or propositions relating to town affairs shall be prepared and furnished at the expense of the town by the clerk thereof, as provided in the election law. Such ballots shall be distributed by the town clerk at the same time and in the same manner as are other ballots to be voted at a general election.

§ 3. At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election as is now provided by law, with respect to the canvass and return of the votes cast for other officers elected at the general election held at the time of the holding of such town meeting and election. The county board of canvassers shall canvass the votes cast at any such town meeting and election for town officers and propositions voted upon at any such town meeting and election, in the same manner as is provided by law for the canvass of votes cast at general elections. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each own officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein a certificate of the determination of such board. Upon the receipt by the town clerk of a certified copy of the certificate of the determination of the county board of canvassers hereinbefore

mentioned, the town clerk and justices of the peace shall meet and appoint in writing the additional inspectors of election as required by law. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the votes cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this act shall apply to and govern town meetings and elections held as provided therein. (*Thus amended by chap. 205, L. 1900.*)

§ 4. There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday in the year eighteen hundred and ninety-nine, and biennially thereafter; one supervisor, one town clerk, three assessors, one or three commissioners of highways, one collector, one or two overseers of the poor, not more than five constables, and two inspectors of election for each election district, all of whom shall hold office for a term of two years beginning on the first day of January, nineteen hundred. There shall also be elected at such town meeting and election and biennially thereafter, two justices of the peace for terms of four years, beginning on the succeeding first day of January. The collectors elected at such town meetings and elections shall enter on the discharge of their duties after their predecessors shall have completed the duties of their offices, in respect to the collection of taxes and the return thereof, as now prescribed by law.

§ 5. The supervisor in each one of the towns in any such county shall, on the last Tuesday in December of each year, account with the justices of the peace and town clerk of the town for the disbursement of all moneys received by him. The town board in each of such towns shall meet on the last Tuesday of December of each year for the purpose of receiving the accounts of town officers. The provisions of section one hundred and sixty-one of the town law, relating to the first meeting of the town board, shall apply to the meetings so held in any such town for the receiving of accounts of town officers.

§ 6. This act shall take effect immediately.

Chap. 34.

AN ACT to provide for the holding of town meetings and elections in counties of the state, having a certain population, and to fix the salaries of supervisors in any such county, and to regulate the powers of such board, and to repeal certain acts and parts of acts.

Became a law, February 22, 1901, with the approval of the Governor.

Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The next town meeting or election at which town officers shall be elected in any county of the state having a population of over one hundred and thirty thousand and less than one hundred and fifty thousand inhabitants, according to the federal enumeration next preceding the passage of this act, held after the first Tuesday of March, nineteen hundred and one, shall be held on the first Tuesday after the first Monday of November in the year nineteen hundred and one, and biennially thereafter at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting and election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the clerk of the county wherein such town is located, and if nominated by a political party, at least twenty days and not more than thirty days before such town meeting and election is held, or, if independent nominations at least fifteen days and not more than thirty days prior thereto. The ballots prepared by the county clerk shall include the names of all candidates nominated for town offices in any such towns. The county clerk shall apportion to and charge the several towns in any of such counties with

their respective proportionate shares of the expense of the preparation and distribution of such ballots.

§ 2. Ballots for the submission of questions or propositions relating to town affairs shall be prepared and furnished at the expense of the town by the clerk thereof, as provided in the election law. Such ballots shall be distributed by the town clerk at the same time and in the same manner as are other ballots to be voted at a general election.

§ 3. At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election as is now provided by law, with respect to the canvass and return of the votes cast for other officers elected at the general election held at the time of the holding of such town meeting and election. The county board of canvassers shall canvass the votes cast at any such town meeting and election for town officers and propositions voted upon at any such town meeting and election, in the same manner as is provided by law for the canvass of the votes cast at a general election. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meet-

ing and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein, a certificate of the determination of such board. Upon the receipt by the town clerk of a certified copy of the certificate of the determination, of the county board of canvassers hereinbefore mentioned, the town clerk and justices of the peace shall meet and appoint in writing the additional inspectors of election as required by law. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the votes cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this act shall apply to and govern town meetings and elections held as provided therein.

§ 4. There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday of November in the year nineteen hundred and one, and biennially thereafter: one supervisor, one town clerk, three assessors, one or three commissioners of highways, one collector, one or two overseers of the poor, not more than five constables, and two inspectors of election for each election district, all of whom shall hold office for the term of two years, beginning on the first day of January, nineteen hundred and two. There shall also be elected at such town meeting and election and biennially thereafter, two justices of the peace for terms of four years, beginning on the succeeding first day of January. The collectors elected at such town meetings and elections shall enter on the discharge of their duties after their predecessors shall have completed the duties of their offices, in respect to the collection of taxes and the return thereof, as now prescribed by law.

§ 5. The supervisor in each one of the towns in any such county shall, on the last Tuesday in December of each year, account with the justices of the peace and town clerk of the town for the disbursement of all moneys received by him. The town board in each of such towns shall meet on the last Tuesday in December of each year for the purpose of receiving the accounts

of the town officers. The provisions of section one hundred and sixty-one of the town law, relating to the first meeting of the town board, shall apply to the meeting so held in any such town for the receiving of accounts of town officers.

§ 6. The members of the board of supervisors of any such county shall receive an annual salary of two hundred and fifty dollars for all services rendered by them excepting such services as shall be a town charge. Each of such supervisors shall also be entitled to mileage at the rate of eight cents per mile for once going and returning from his residence to the place where the sessions of the board shall be held, by the most usual route for each regular and special session. Each supervisor shall receive for his services in making a copy of the assessment roll three cents for each written line for the first one hundred lines, two cents per hundred for the second hundred written lines and one cent per line for all written lines in excess of two hundred and one cent for each line of the tax roll actually extended by him. No other compensation, fee, charge, allowance, perquisite or emolument of any kind or nature excepting for services which are by law a town charge, shall be directly or indirectly charged or received by any supervisor, either as a supervisor or as a member of the board of county canvassers of any such county, and any supervisor who shall charge, receive or vote for any allowance in violation of the provisions of this or the following section shall be deemed guilty of a misdemeanor and on such conviction shall forfeit his office and shall, in addition to the punishment prescribed by law for misdemeanor, be liable to a penalty of two hundred and fifty dollars.

§ 7. The said board of supervisors of any such county shall during the first fifteen days of the annual session, fix the annual salary of the clerk of said board, which said salary shall not be increased or diminished for the term, and which salary shall be in full for all services of every name and nature which said clerk shall perform for said board of supervisors or for any such county and in full for any and all disbursements and expenses of said clerk, excepting for such disbursements as are made for necessary

supplies for the use of said board of supervisors. Any clerk of said board of supervisors of any such county who shall charge or receive any allowance in violation of the provisions of this section shall be deemed guilty of a misdemeanor and on such conviction shall forfeit his office and shall, in addition to the punishment prescribed by law for misdemeanor, be liable to a penalty of two hundred and fifty dollars.

§ 8. Nothing in this act shall be so construed so as to prevent the holding of a town meeting or election in any of the towns of any such county on the first Tuesday of March, nineteen hundred and one, as now provided by law. No justice of the peace or collector shall be chosen at any election held in any such town on the first Tuesday of March, nineteen hundred and one, except justices of the peace to fill vacancies. The supervisor and all of the town officers except justices of the peace chosen in any such town on said first Tuesday of March, nineteen hundred and one, or at any time prior to said first Tuesday of March, nineteen hundred and one, shall hold office to and including December thirty-first, nineteen hundred and one, and their several terms of office except justices of the peace shall cease and determine on that day, and their successors shall be chosen as provided in section one of this act.

§ 9. All acts and parts of acts inconsistent with the provisions of this act, in so far as they relate to any such county, are hereby repealed.

§ 10. This act shall take effect immediately.

Chap. 174.

AN ACT to provide for the holding of town meetings and elections in counties of the state, having a certain population.

Became a law, March 22, 1901, with the approval of the Governor.

Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The town meetings to be held in any county of the state, having a population of more than one hundred and twenty thousand and less than one hundred and thirty thousand inhabitants, according to the federal enumeration next preceding the passage of this act, on the first Tuesday after the first Monday of November in the year nineteen hundred and one, and biennially thereafter, shall be held at the same time and place at which the general election in such towns are held. No person shall be entitled to vote at any such town meeting and general election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. The names of the nominees of each party or independent body for town officers shall be printed in said party's column or the column for independent nominations, after the names for the nominees for general officers. Certificates of nomination of candidates for town offices in any such towns shall be filed with the clerk of the county, and the time for filing any certificate of nomination shall be the same as is prescribed in the election law for filing other certificates of nominations with a county clerk. The ballots prepared by the county clerk shall include the names of all candidates nominated for town offices in any such towns. If any town propositions or questions may lawfully be voted upon at a town meeting held on general election day, an additional ballot box shall be provided marked "box for town propositions," in which shall be deposited the ballots cast on town propositions or questions.

§ 2. The county clerk shall provide all ballots for the submission of town propositions or questions. The expense of printing and delivering the official ballots, sample ballots and cards of instruction, poll books, tally sheets for inspectors and ballot clerks, and distance markers to be used at a general election in any such town, and of printing the lists of nominations therefor, if the town meeting be held at the same time therewith, shall be apportioned by the county clerk between such town and the county in the proportion of the number of candidates for town offices on such ballots respectively to the whole number of candidates thereon and the amount of such expense so apportioned respectively to such town and the county and shall be a charge thereon. The expense of preparing and furnishing the official ballots and sample ballots for the submission of town propositions or questions shall be a charge upon the town for which said ballots are furnished. The county clerk shall also furnish inspectors' and ballot clerks' return sheets for making the returns of the election of town officers and of the vote on town propositions or questions, and stationery and supplies which are usually provided by the town clerk for town meetings held at other times than on a general election day. The county clerk of each county not salaried shall be paid by such county a reasonable compensation for his services in carrying out the provisions of this chapter, to be fixed by the board of supervisors of the county.

§ 3. At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election as is now provided by law, with respect to the canvass

and return of the votes cast for other officers elected at the general election held at the time of the holding of such town meeting and election. The county board of canvassers shall canvass the vote cast at any such town meeting and election for town officers and propositions voted upon at any such town meeting and election, in the same manner as is provided by law for the canvass of the votes cast at a general election. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein, a certificate of the determination of such board. Upon the receipt by the town clerk of a certified copy of the certificate of the determination, of the county board of canvassers hereinbefore mentioned, the town clerk and the justices of the peace shall meet and appoint in writing the additional inspectors of election as required by law. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the vote cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this act shall apply to and govern town meetings and elections held as provided therein.

§ 4. All acts and parts of acts inconsistent with the provisions of this act, in so far as they relate to any such county, are hereby repealed.

§ 5. This act shall take effect immediately.

Chap. 10.

AN ACT to provide for the holding of town meetings and elections in counties of the state having a certain population.

Became a law, February 4, 1902, with the approval of the Governor.
Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The next town meeting at which town officers shall be elected in any county of the state having a population of over four hundred thousand inhabitants and less than six hundred thousand inhabitants, according to the last federal enumeration, shall be held on the first Tuesday after the first Monday in November in the year nineteen hundred and three and biennially thereafter, at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting or election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for a town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the clerk of the county wherein such town is located, and if nominated by a political party, at least twenty days and not more than thirty days before such town meeting and election is held, or, if independent nominations, at least fifteen days and not more than thirty days prior thereto. The ballots prepared by the county clerk shall include the names of all candidates nominated for town officers in any such towns. The county clerk shall apportion to and charge the several towns in any of such counties with their respective proportionate shares of the expenses of the preparation and distribution of such ballots.

§ 2. Ballots for the submission of questions or propositions relating to town affairs shall be prepared and furnished at the expense of the town by the clerk thereof, as provided in the election law. Such ballots shall be distributed by the town clerk at the same time and in the same manner as are other ballots to be voted at a general election. An additional ballot box shall be provided, marked "box for town propositions," in

which shall be deposited the ballots cast on town propositions or questions.

§ 3. At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election as is now provided by law, with respect to the canvass of the votes cast at a general election. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein, a certificate of the determination of such board. No list of nominations of candidates for town officers to be filled at any such biennial town meeting and election, or the result of the official canvass of the vote cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this act shall apply to and govern town meetings and elections held as provided herein.

§ 4. There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday of November, in the year nineteen hundred and three, and biennially thereafter, one supervisor, one town clerk, three assessors, one or three commissioners of highways, one collector, one or two overseers of the poor and not more than five constables. The persons first elected to the various offices above mentioned shall enter upon the discharge of their duties at the expiration of the term of their predecessors, and serve until and including December thirty-first, nine-

teen hundred and five. Their successors shall be elected at the biennial election and town meeting held in nineteen hundred and five and biennially thereafter, for the term of two years commencing on the first day of January, succeeding their election. There shall also be elected at such town meeting and election and biennially thereafter, two justices of the peace for terms of four years, beginning on the succeeding first day of January. The collectors elected at such town meetings and elections shall enter upon the discharge of their duties after their predecessors have completed the duties of their offices, in respect to the collection of taxes and returns thereof, as now prescribed by law.

§ 5. Nothing in this act shall be deemed to supersede or repeal any provision of chapter eight hundred and sixteen of the laws of eighteen hundred and ninety-five or chapter six hundred and sixty-three of the laws of nineteen hundred and one or any amendments to either of such laws.

§ 6. This act shall take effect immediately.

Chap. 239.

AN ACT to provide for the holding of town meetings and elections in counties of the state having a certain population.

Became a law, March 26, 1902, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The next town meeting at which town officers shall be elected in any county of the state having a population of over seventy-one thousand inhabitants and less than seventy-five thousand inhabitants, according to the last federal enumeration, shall be held on the first Tuesday after the first Monday in November in the year nineteen hundred and three and biennially thereafter, at the same places as general elections in such towns are held. No person shall be entitled to vote at any such town meeting or election unless he is registered and entitled to vote at the general election held at the same time that such town meeting is held. All elective town officers shall be elected at such general election in the same manner and on the same ballot as other officers who may be elected thereat. Certificates of nomination of candidates for a town office in any such towns shall be in duplicate, one of which shall be filed with the town clerk of the town, and the other with the clerk of the county wherein such town is located, and if nominated by a political party, at least twenty days and not more than thirty days before such town meeting and election is held, or, if independent nominations, at least fifteen days and not more than thirty days prior thereto. The ballots prepared by the county clerk shall include the names of all candidates nominated for town officers in any such towns. The county clerk shall apportion to and charge the several towns in any of such counties with their respective proportionate shares of the expenses of the preparation and distribution of such ballots.

§ 2. Ballots for the submission of questions or propositions relating to town affairs shall be prepared and furnished at the expense of the town by the clerk thereof, as provided in the election law. Such ballots shall be distributed by the town clerk at the same time and in the same manner as are other ballots to be voted at a general election. An additional ballot box shall be provided, marked "box for town propositions," in

which shall be deposited the ballots cast on town propositions or questions.

§ 3. At the close of the polls at any such biennial town meeting and election in any such town the inspectors of election shall proceed to canvass the votes for the candidates for the several town offices, and for and against all town propositions duly submitted to the voters of such town in the election districts where such meeting and election was held, in the same manner as the votes for other candidates and propositions cast at the general election are canvassed. The inspectors of election shall perform the same duties with respect to the canvass of the vote and the filing of the returns thereof for such town officers, and all other matters pertaining to the determination of the result of the election as is now provided by law, with respect to the canvass of the votes cast at a general election. All provisions of law relating to the canvass of votes cast at a general election by the county board of canvassers, to the correction of clerical errors, the review of the determination by such board of canvassers, and all other matters pertaining to the canvass of the votes cast at a general election, shall be applicable to the canvass of all votes for such town officers and propositions. The county clerk of any such county shall transmit to the clerk of each town therein a certified copy of the determination of the county board of canvassers as to the election of each town officer and proposition voted for at the town meeting and election held in such town. The county clerk of any such county shall transmit to each person declared by the board of canvassers thereof to be elected to a town office therein, a certificate of the determination of such board. No list of nominations of candidates for town offices to be filled at any such biennial town meeting and election, or the result of the official canvass of the vote cast thereat, shall be required to be published. All the provisions of the election law not inconsistent with the provisions of this act shall apply to and govern town meetings and elections held as provided herein.

§ 4. There shall be elected at the town meeting and election to be held in each town in any such county on the first Tuesday after the first Monday of November, in the year nineteen hundred and three, and biennially thereafter, one supervisor, one town clerk, three assessors, one or three commissioners of highways, one collector, one or two overseers of the poor and not more than five constables. The persons first elected to the various offices above mentioned shall enter upon the discharge of their duties on the first day of January, nineteen hundred and four, and serve until and including December thirty-first, nine-

Section 40. Classification of villages.—Villages are divided into classes according to their population as shown by the latest village enumeration as follows:

First class.—Villages containing a population of five thousand or more.

Second class.—Villages containing a population of three thousand and less than five thousand.

Third class.—Villages containing a population of one thousand and less than three thousand.

Fourth class.—Villages containing a population of less than one thousand.

§ 41. Qualification of voters.—A voter at a village election, other than the first, must possess the following qualifications:

1. To entitle him to vote for an officer, he must be qualified to vote at a town meeting of the town in which he resides, and must have resided in the village thirty days next preceding such election.

2. To entitle him to vote upon a proposition, he must be entitled to vote for an officer, and he or his wife must also be the owner of property in the village assessed upon the last preceding assessment-roll thereof. A woman who possesses the qualifications to vote for village officers, except the qualification of sex, who is the owner of property in the village assessed upon the last preceding assessment-roll thereof, is entitled to vote upon a proposition to raise money by tax or assessment. (*Thus amended by chap. 509, L. 1901.*)

§ 42. Eligibility to office.—A president or trustee, or a fire, water, light, sewer or cemetery commissioner must, at the time of his election and during his term, be the owner of property assessed upon the last preceding assessment-roll of the village; except that a president or trustee elected at the first village election, must be the owner of property assessed upon the last preceding town assessment-roll. Any resident elector is eligible to any other village office.

A resident woman, who is a citizen of the United States, and of the age of twenty-one years, is eligible to the office of village clerk or deputy clerk. A person shall not hold two village offices at the same time, except the offices of collector and police constable, or water and light commissioner.

§ 43. List of village officers ; mode of choosing; official year; terms of office.—Every village shall have a president, not less than two trustees, a treasurer, a clerk and a street commissioner. Except as herein provided, every village shall also have a collector, but a village of the first class may, upon the adoption of a proposition therefor at a special election, determine that no collector shall thereafter be elected therein. A village of the first or second class may also have a deputy clerk, and any village may have a village engineer.

There shall be a board of health in each village, consisting of not less than three nor more than seven persons, appointed by the board of trustees of such village, in the manner provided by article two of the public health law. The president, trustees, treasurer, collector, police justice, and assessors shall be elective officers, except that in a village of the first or second class the treasurer may be appointed, upon the adoption of a proposition therefor at a village election. All other village officers shall be appointed by the board of trustees, except as otherwise provided herein. In all villages the offices of clerk and street commissioners may be elective, upon the adoption of a proposition therefor at a village election, and after the adoption of such a proposition, a proposition may be submitted for the appointment of such officers, at any subsequent village election. After a proposition has been adopted changing the method of filling such offices, another proposition changing such method shall not be submitted until after a period of two years from the adoption of such prior proposition.

An "official year" begins at noon on the first Monday after the third Tuesday of March, and ends at noon on the same Monday in the next calendar year.

The term of office of the president, treasurer, collector, clerk, street commissioner and inspectors of election shall be one official year; of each trustee elected for a full term, two official years, and of a police justice, four calendar years.

The term of each village officer, except police justice, begins at noon on the first Monday after the annual election. A full term of the police justice begins on the first day of January succeeding the annual election at which he was elected.

After the first election in a village subject to the provisions of this chapter one-half of the trustees shall be elected each year for a full term (*Thus amended by chap. 155, L. 1901.*)

§ 44. Number of trustees.—Villages in the several classes shall elect trustees as follows:

1. In the first class, not less than two nor more than eight.
2. In the second class, not less than two nor more than six.
3. In the third class, two or four.
4. In the fourth class, two.

Each village shall always have an even number of trustees.

§ 45. Changing number of trustees.—Within the limitations herein prescribed, the number of trustees may be changed by adopting a proposition therefor at a special election. If the number be increased, the additional trustees shall be elected at the next annual election. One-half of the additional trustees shall be elected for one year and one-half for two years. If the number of trustees be reduced, such reduction shall not take effect until the expiration of the terms of the trustees then in office.

§ 46. Readjustment of terms of trustees.—The terms of the trustees in office at noon on the Monday next following the date of the annual election in the year eighteen hundred and ninety-eight shall then expire. At such election the whole number of trustees which the village is authorized to choose shall be elected, one-half for one year and one-half for two years. This section does not apply to villages hereafter incorporated, and in which an election of officers is held subsequent to September thirtieth, eighteen hundred and ninety-seven, and prior to the third Tuesday of March, eighteen hundred and ninety-eight.

§ 47. Determination of future number of trustees.—If when this chapter takes effect a village not in the fourth class has a greater or a less number of trustees than the number to which it is or may be entitled, a special election may be held therein prior to March first, eighteen hundred and ninety-eight, to determine the number of trustees to be thereafter elected, within the limitations herein prescribed.

Such special election shall only be held upon the petition of twenty-five electors qualified to vote upon a proposition; and if it be not held, such village shall only elect two trustees at the an-

nual election in eighteen hundred and ninety-eight, one of whom shall be elected for a term of one year and one for two years.

§ 48. **Abolition of existing wards or districts.**—All divisions of villages into districts, subdivisions or wards, for the purpose of electing trustees, made under a general law and in force when this chapter takes effect, are abolished.

§ 49. **Election of trustees by wards.**—A village of the first class may elect trustees by wards upon the adoption of a proposition therefor at a special election. If such a proposition be adopted, the board of trustees shall meet within twenty days thereafter and divide the village into wards of a number equal to one-half of the number of trustees which the village has a right to elect. Such wards shall contain a population as nearly equal as may be, and be of convenient and contiguous territory, in as compact form as practicable. The board of trustees shall make a certificate of such division, which shall contain a description of each ward, and shall file the same in the office of the village clerk, and publish it in each newspaper published in the village, at least twenty days before the next annual election. One trustee shall thereafter be elected annually in each ward, for a full term.

If after such a division into wards, the number of trustees in the village be changed, the board of trustees shall, in like manner, make a new division into wards.

§ 50. **Election of police justice.**—The office of police justice is continued in every village in which it is now established. A village may establish the office of police justice by adopting a proposition therefor. A village, in which the office of police justice has been established, may abolish such office at an annual election, to take effect upon the expiration of the term of the police justice then in office.

§ 51. **Election of assessors.**—The board of trustees shall act as assessors of the village, or may appoint of their number a committee for that purpose, unless separate assessors are appointed or elected as provided by this section. If twenty-five electors

qualified to vote upon a proposition shall present a petition to the board of trustees for the election of separate assessors, it shall submit to the next annual election a proposition therefor, and if such proposition be adopted, shall appoint three persons to be assessors of such village for the terms of one, two and three years, respectively, and thereafter at each annual election, one assessor shall be elected for a full term of three years. In a village of the first or second class, which now has no separate assessors, the board of trustees may, by resolution, direct that three assessors be elected at the next annual election, and they shall be elected accordingly for the terms of one, two and three years, respectively. At each annual election thereafter one assessor shall be elected for a full term of three years. A village having separate assessors, when this act took effect, either elective or appointive, may continue to elect or appoint assessors until such village shall decide by a proposition submitted at an annual election to have the board of trustees, or a committee thereof, act as assessors. If twenty-five electors qualified to vote upon a proposition, shall present a petition to the board of trustees to abolish separate assessors, it shall submit such proposition to the next annual election, to which it is entitled to be submitted under this act, and if adopted no assessors shall be elected or appointed, except that such village shall continue to elect or appoint assessors whose terms of office shall expire with the term of the assessor then in office having the longest term to serve, after which time, the trustees or committee therefrom, shall act as assessors. (*Thus amended by chap. 195, L. 1898.*)

§ 52. Election districts.—A village, containing not more than eight hundred qualified electors, shall constitute a single election district for village elections. If at an annual election, the number of votes cast for village officers shall exceed eight hundred, the board of trustees may by resolution, adopted at least thirty days before the next annual election, divide such village into election districts, containing not more than eight hundred voters. Such

resolution shall specify the boundaries of each district, but a ward shall not be divided in the formation thereof, except to make two or more election districts wholly within such ward. Such resolution shall be published and posted with a notice of such election.

§ 53. **Officers to be elected at annual election.**—Elective offices shall be filled at the annual election next preceding the expiration of the terms thereof. If a vacancy in an elective office occurs more than ten days prior to an annual election, at which a successor for a full term is not to be chosen, it shall be filled at such election for the remainder of the unexpired term.

§ 54. **Inspectors of election.**—If a village constitutes but one election district, the trustees and clerk of the village, after the first election of village officers, shall be inspectors of election for the village, and one or more of them shall preside at all elections. If a trustee or the clerk shall not be present, the electors may appoint a chairman to preside, who shall have all the powers of an inspector.

If a village is divided into election districts, the board of trustees shall, annually, at least thirty days before the annual election, appoint two inspectors of election for each district to preside at all village elections therein, until their successors are appointed. Such inspectors shall not both be chosen from the same political party. The board may also appoint for each district a poll clerk and a ballot clerk.

§ 55. **Annual elections.**—An annual election shall be held in each village on the third Tuesday in March, unless a town meeting of a town in which any part of the village is situated, or a general election, shall be held on such day, in which case the annual election shall be held upon the next day thereafter. All other village elections are special elections. The board of trustees shall, by resolution, adopted at least ten days before every village election, designate the hours of opening and closing the polls thereof, which shall include at least four consecutive hours between sunrise and sunset. The resolution shall also designate

the place of holding the election, or if there is more than one election district in the village, the place of holding the election in each district. The board also shall, at least ten days before the election, cause notice thereof to be published at least once in the official paper, if such paper is published in the village, and a printed copy thereof conspicuously posted in at least six public places in the village, specifying the time and place, or places, of holding the election, the hours of opening and closing the polls thereof, the offices, if any, and the term to be filled, and setting forth in full all propositions to be voted upon. If the board neglects to appoint the place or places for the annual election, the election shall be held at the place or places of the last preceding annual election, and if it neglects to appoint the hours of opening and closing the polls thereof, such hours shall be the same as at the last preceding annual election. An annual election of the village officers shall not be invalid because of a failure to give such notice. A vote upon a proposition shall be void unless due notice of the election has been given.

If a village, constituting a single election district, is divided into wards and elects trustees by wards, separate ballot boxes shall be provided for each ward, and the ballots of the electors residing therein shall be deposited in the ballot box designated for such ward.

§ 56. Canvass of annual election.—The inspectors of election of each election district shall, immediately upon the closing of the polls of each annual election, proceed to canvass the votes cast thereat, and shall complete such canvass without adjournment. They shall, before nine o'clock in the forenoon of the following day, file with the village clerk their certificate setting forth the holding of the election, the total number of votes cast for each office, the number of votes cast for each person for such office, the total number of votes cast upon each proposition voted upon, and the number cast for and against it. If the village contains more than one election district, the board of trustees of such village

shall meet at its usual place of meeting, at nine o'clock in the forenoon of the next day after the election. The village clerk shall produce at such meeting the returns of the inspectors of election, and the board of trustees shall canvass such returns, and file in the office of the village clerk a certificate declaring the result. The person eligible and receiving the highest number of votes for an office shall be elected thereto. If two or more persons receive an equal and the greatest number of votes for the same office, the board of trustees shall determine by lot which of them shall be deemed elected.

§ 57. Failure to designate terms.—No election of village officers, heretofore or hereafter held in any village, shall be invalid on account of the failure of the electors to designate in their ballots the respective terms of office of persons to be elected thereat, for the same office, for different terms; but the persons so to be elected to such office, who are eligible and receive the highest number of votes, shall be elected. The person first named on a ballot containing the names of more than one person for such an office, and not designating their respective terms, shall be deemed designated for the longest term, the second, for the next longest term, and so on to the end; and the inspectors of election shall count the ballots and certify the result accordingly. If the votes shall not be so counted and canvassed the board of trustees shall, at least twenty days before the expiration of the shortest term, determine by lot which of such officers shall hold office for each term, and thereupon such officers shall be deemed to have been elected accordingly.

§ 58. Special elections of officers.—Whenever the day fixed by law for an annual election shall have passed, and no election shall have been held thereon, the board of trustees shall, forthwith, give notice of a special election, to be held at the place of the omitted annual election. Such notice shall be given in like manner as a notice of an annual election, and a special election shall be held in the same manner as, and for the purposes of, an annual

election. For the purpose of determining the terms of office of the officers elected thereat, the time therefrom to the beginning of the next official year shall be deemed one year.

§ 59. **Submission of propositions ; special elections.**—The board of trustees may, upon its own motion, and shall, upon the petition of twenty-five electors, qualified to vote upon a proposition, cause to be submitted at a village election, a proposition upon any question which may be lawfully decided thereat. A separate board of fire, water, light, sewer, cemetery or other commissioners may present to the board of trustees a petition, requesting the submission of a specified proposition, relating to its department, at a village election. Upon the presentation of such petition, the board of trustees shall cause the proposition to be submitted accordingly. If a petition under this section be presented after the annual election and before the first day of January following, a special election shall be called, to be held not less than ten nor more than twenty days after the presentation of such petition. If a petition be presented at any other time, and more than ten days prior to the annual election, the proposition shall be submitted at such annual election. Except for the purpose of fixing or changing the number of trustees, or for the purpose of determining whether an officer shall be thereafter elected or appointed, no special election shall be held in the months of February or March. Notice of a special election for the submission of a proposition shall be given in the same manner as for an annual election. Such special election shall be held by the same officers, and conducted and the result canvassed in the same manner as an annual election.

§ 60. **Votes upon propositions to be by ballot.**—All votes upon a proposition submitted at a village election shall be by ballot; and, unless otherwise provided, the provisions of the election law, relating to ballots, apply to propositions submitted, under this chapter

§ 61. **Official undertakings.**—The treasurer, collector, police justice, street commissioner, and such other officers as may be required by the board of trustees, shall, before they enter upon the duties of their respective offices, each execute to the village and file with the village clerk, an official undertaking in such sum and with such sureties as the board of trustees shall direct and approve. The board of trustees may at any time require any such officer to file a new official undertaking for such sum and with such sureties as the board shall approve.

§ 62. **Notice to person chosen to a village office.**—The clerk of the village shall, within three days after the election or appointment of a village officer, except the first election or appointment after the incorporation of the village, notify each person elected or appointed of his election or appointment and of the date hereof, and that he is required to file his oath of office with such clerk, before entering upon the duties thereof, and, if an official undertaking be required of him, by or in pursuance of law, that he is also required to file the same with such clerk, and that upon his failure so to do, he will be deemed to have declined the office. If an undertaking is required of a village officer, by or in pursuance of law, after entering upon the duties of his office, the clerk of the village shall thereupon serve upon such officer personally, a written notice that he is required to file such undertaking with the clerk, within ten days after the service of the notice, and that upon his failure to do so, his office will become vacant.

§ 63. **Resignations and removals.**—A village officer may resign to the board of trustees, and his resignation shall take effect upon the delivery thereof to the village clerk, unless a time be specified in such resignation for its taking effect thereafter, in which case, such resignation shall take effect at the time so specified.

In addition to the method provided by the public officers law, an officer, except a president or a trustee, appointed by the board of trustees of the village, may be removed by the board for mis-

conduct, on notice to such officer and an opportunity given him to make his defense.

§ 64. **Filling of vacancies.**—Vacancies occurring otherwise than by expiration of term in a village office, other than that of health officer, shall be filled by the board of trustees, if the office be elective, until the end of the current official year, but if the office be appointive, for the balance of the unexpired term. If a vacancy in an elective office occurs within less than ten days prior to an annual election, and which office is not to be filled at such election, the appointment shall be for a term which will expire at the end of the next official year.

§ 65. **Refusal of officer to surrender his office.**—If a person who has been an officer of a village refuses or neglects to deliver to his successor in office, within ten days after notification and request, all the moneys, books, papers, records, property and effects of every description, which have come into his possession or under his control, by virtue of his office, and belonging to the village or appertaining to the office, he shall forfeit and pay to the village, the sum of twenty-five dollars for each and every day he shall so neglect or refuse, and also all damages, costs and expenses caused by such neglect or refusal.

§ 66. **Separate boards of commissioners.**—A village which has no separate board of fire, water, light, sewer or cemetery commissioners, by adopting a proposition therefor at an annual election, may establish such a board, or may establish a municipal board, with the powers, duties and responsibilities of two or more of such separate boards. In a village of the first class a board of commissioners or a municipal board may be composed of three or five members as shall be determined by the proposition. If such proposition be adopted, the board of trustees at its next annual meeting shall appoint such commissioners, for the terms of one, two and three years, respectively, or in a village which determines to have five commissioners, for the terms of one, two, three, four and five years, respectively; and at each annual meet-

ing thereafter the board of trustees shall appoint one commissioner for the full term of three or five years, as the case may be.

§ 67. Municipal boards; consolidation.—Upon the adoption of a proposition therefor a village may establish a municipal board, possessing all the powers and subject to all the responsibilities of two or more of the boards named in this article. Such municipal board shall be composed of three members appointed by the board of trustees for the terms of one, two, and three years, respectively. Upon the filing of the certificate of the adoption of such proposition, all the powers, duties and responsibilities of such separate boards are transferred to the municipal board, and all property, records, books and papers in the possession of such separate boards shall, within fifteen days after such consolidation, be delivered to the municipal board. If the village has only one of the boards provided in this article, the powers and responsibilities of one or more other boards, named therein, may be conferred upon such existing board by the adoption of a proposition therefor at an annual election, and thereupon such existing board shall possess all the powers and responsibilities of such other board or commission consolidated with it, and shall thereafter be known as the municipal board of the village.

§ 68. Continuance of separate boards.—If a village now has a separate board of fire, water, light, sewer or cemetery commissioners, such commissioners shall continue in office during their respective terms, and no commissioners shall be hereafter appointed until the whole number be reduced by expiration of term or otherwise to less than three, except that in a village of the third class the commissioner or commissioners last appointed shall cease to be a commissioner from and after the passage of this act, until the number be reduced to three, and except that if a village of the first or second class now has a board of commissioners composed of five members, such number shall be continued. All such commissioners shall hereafter be appointed by the board of trustees; and the terms shall be so adjusted that one shall expire each official year. (*Thus amended by chap. 668, L. 1898.*)

§ 69. **Continuance of municipal board.**—A municipal board or commission heretofore created and existing in a village under a general law when this chapter takes effect is continued, and one member of such board or commission shall be appointed by the board of trustees each year for a full term, as provided by the law relating to such board or commission in force on the day next preceding the day when this chapter takes effect, and such terms are hereby established as the terms for the members of such board or commission under this chapter. Such municipal board or commission so continued shall possess all the powers and responsibilities and be subject to all the duties and liabilities herein conferred or imposed upon the several separate boards named in this article, except boards of cemetery commissioners.

§ 70. **Abolition of separate or municipal boards.**—A separate board of fire, water, light, sewer or cemetery commissioners, or a municipal board, may be abolished by adopting a proposition therefor at an election. The abolition of such a board shall take effect immediately upon filing a certificate showing the adoption of the proposition. Within ten days after such certificate is filed, the board shall deliver to the clerk of the village its records, books and papers; and shall also within the same time deliver to the treasurer all funds, and to the president all other property in its possession or under its control, belonging to the department.

§ 71. **Books and papers to be open to inspection.**—All books, papers and records relating to village affairs kept by any board or officer shall be open to inspection at all reasonable hours by every inhabitant of the village.

§ 72. **Transfer of fund and records.**—Within ten days after this chapter takes effect, each commissioner or board of commissioners or other village officer heretofore authorized to receive or expend village funds or having such funds under his or its control, shall file with the board of trustees a verified report showing the amount and source of such funds and the object to which the same are applicable. If such funds are under the supervision of a board or officer authorized to contract indebtedness on behalf of the village, such report shall also contain a statement of the amount of such existing indebtedness and the persons to whom

and the time when the same is payable. Upon the receipt of such report, the board of trustees may require the treasurer, within ten days after notice therefor, to furnish additional security. Within ten days after the furnishing of such security, approved by the board, or if no such additional security is required, within fifteen days after the filing of the report, all funds belonging to the village shall be paid to the treasurer, and shall be received by him and credited to the proper fund as herein prescribed. All records, books and papers belonging to a board of commissioners, separate from the board of trustees, shall, upon or before the payment of the funds to the treasurer as herein provided, be delivered to the village clerk.

ARTICLE XIV.

EFFECT OF CHAPTER; REPEAL.

Section 340. Effect of chapter on special villages.

341. Effect of revision on general villages.

342. Repeal.

343. When to take effect.

Section 340. Effect of chapter on special villages.—A village incorporated under and subject to a special law, and each officer thereof, possesses all the powers and is subject to all the liabilities and responsibilities conferred or imposed upon a village incorporated under this chapter, or upon an officer thereof, not inconsistent with such special law.

§ 341. Effect of revision on general villages.—The following villages are subject to the provisions of this chapter, as if incorporated thereunder:

1. Villages incorporated under chapter 426 of the laws of 1847, or the acts amendatory thereof and supplemental thereto, and which have not been reincorporated under a special law.

2. Villages incorporated or reincorporated under chapter 291 of the laws of 1870, or the acts amendatory thereof and supplemental thereto.

3. Villages incorporated by special law and reincorporated under a general law and now subject to its provisions.

§ 342. Repeal.—The following acts and parts of acts are hereby repealed:

School Elections.

(From Consolidated School Law in force July 1, 1896.)

TITLE VII — ARTICLE 1.

Of common school district meetings, who are voters, and their powers.

SECTION 1. New districts, notice of first meeting.—Whenever any school district shall be formed, the commissioner or any one or more of the commissioners, within whose district or districts it may be, shall prepare a notice describing such district, and appointing a time and place for the first district meeting, and deliver such notice to a taxable inhabitant of the district.

§ 2. Service of notice.—It shall be the duty of such inhabitant to notify every other inhabitant of the district qualified to vote at the meeting, by reading the notice in his hearing, or in case of his absence from home, by leaving a copy thereof, or so much thereof as relates to the time, place and object of the meeting, at the place of his abode, at least six days before the time of the meeting.

§ 3. May give notice of meeting before time fixed.—In case such meeting shall not be held, and in the opinion of the commissioner it shall be necessary to hold such meeting, before the time herein fixed for the first annual meeting, he shall deliver another such notice to a taxable inhabitant of the district, who shall serve it as hereinbefore provided.

§ 4. Special district meeting, when commissioner may call.—When the clerk and all the trustees of a school district shall have removed from the district, or their office shall be vacant, so that a special meeting can not be called, as herein-after provided, the commissioner may in like manner give notice of, and call a special district meeting.

§ 5. Penalty for refusal to serve notice.—Every taxable inhabitant, to whom a notice of any district meeting shall be delivered for service, pursuant to any provisions of this article, who shall refuse or neglect to serve the same, as hereinbe-

fore prescribed, shall forfeit five dollars for the benefit of the district.

§ 6. Special district meetings.— A special district meeting shall be held whenever called by the trustees. The notice thereof shall state the purposes for which it is called, and no business shall be transacted at such special meeting, except that which is specified in the notice ; and the district clerk, or, if the office be vacant, or he be sick or absent, or shall refuse to act, a trustee or some taxable inhabitant, by order of the trustees, shall serve the notice upon each inhabitant of the district qualified to vote at district meetings, at least five days before the day of the meeting, in the manner prescribed in the second section of this title. But the inhabitants of any district may, at any annual meeting, adopt a resolution prescribing some other mode of giving notice of special meetings, which resolution and the mode prescribed thereby shall continue in force until rescinded or modified at some subsequent annual meeting.

§ 7. Proceedings, when illegal.— The proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent.

§ 8. Annual school district meeting.— The annual meeting of each school district shall be held on the first Tuesday of August in each year, and, unless the hour and place thereof shall have been fixed by a vote of a previous district meeting, the same shall be held in the school-house at seven-thirty o'clock in the evening. If a district possesses more than one school-house, it shall be held in the one usually employed for that purpose, unless the trustees designate another. If the district possesses no school-house, or if the school-house shall be no longer accessible, then the annual meeting shall be held at such place as the trustees, or, if there be no trustee, the clerk, shall designate in the notice.

§ 9. Proceedings, when annual meeting not held.— Whenever the time for holding the annual meeting in school districts shall pass without such meeting being held in any district, a special meeting shall thereafter be called by the trus-

tees or by the clerk of such district for the purpose of transacting the business of the annual meeting; and if no such meeting be called by the trustees or the clerk within twenty days after such time shall have passed, the school commissioner of the commissioner district in which said school district is situated, or the superintendent of public instruction may order any inhabitant of such district to give notice of such meeting in the manner provided in the second section of this title, and the officers of the district shall make to such meeting the reports required to be made at the annual meeting, subject to the same penalty in the case of neglect; and the officers elected at such meeting shall hold their respective offices only until the next annual meeting and until their successors are elected and shall have qualified as in this act provided.

§ 10. **Duty of inhabitants upon call of meeting.**—Whenever any district meeting shall be duly called, it shall be the duty of the inhabitants qualified to vote thereat, to assemble at the time and place fixed for the meeting.

§ 11. **Voters, their qualifications.**—Every person of full age residing in any school district and who has resided therein for a period of thirty days next preceding any annual or special meeting held therein, and a citizen of the United States, who owns or hires, or is in the possession under a contract of purchase, of real property in such school district liable to taxation for school purposes; and every such resident of such district, who is a citizen of the United States, of twenty-one years of age, and is the parent of a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting; and every such person not being the parent, who shall have permanently residing with him or her a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting; and every such resident and citizen as aforesaid, who owns any personal property, assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value, exclusive of

such as is exempt from execution, and no other shall be entitled to vote at any school meeting held in such district, for all school district officers and upon all matters which may be brought before said meeting. No person shall be deemed to be ineligible to vote at any such school district meeting, by reason of sex, who has one or more of the other qualifications required by this section.

§ 12. Challenges.—If any person offering to vote at any school district meeting shall be challenged as unqualified, by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am, and have been, for the thirty days last past, an actual resident of this school district and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his or her vote shall be rejected.

§ 13. Illegal voting, etc.—Any person who shall willfully make a false declaration of his or her right to vote at any such school meeting, after his or her right to vote thereat has been challenged, shall be deemed guilty of a misdemeanor. And any person not qualified to vote at any such meeting, who shall vote thereat, shall thereby forfeit five dollars, to be sued for by the supervisor for the benefit of the common schools of the town.

§ 14. Powers of district meeting.—The inhabitants entitled to vote, when duly assembled in any district meeting, shall have power, by a majority of the votes of those present:

1. To appoint a chairman for the time being.
2. If the district clerk be absent to appoint a clerk for the time.
3. To adjourn from time to time as occasion may require.
4. To elect one or three trustees as hereinafter provided, a district clerk and a district collector, and in any district which shall so determine, as hereinafter provided, to elect a treasurer, at their first meeting, and so often as such offices or any of them become vacated, except as hereinafter provided. All district officers shall be elected by ballot. At elections of

district officers, the trustees shall provide a suitable ballot-box. Two inspectors of election shall be appointed in such manner as the meeting shall determine, who shall receive the votes cast, and canvass the same, and announce the result of the ballot to the chairman. A poll-list containing the name of every person whose vote shall be received shall be kept by the district clerk, or the clerk for the time of the meeting. The ballots shall be written or printed, or partly written and partly printed, containing the name of the person voted for and designating the office for which each is voted for. The chairman shall declare to the meeting the result of each ballot, as announced to him by the inspectors, and the persons having the majority of votes, respectively, for the several offices, shall be elected.

5. At the first meeting, or at any subsequent annual meeting, or at any special meeting duly called for that purpose, the qualified voters of any school district are authorized to adopt by a vote of a majority of such voters present and voting, to be ascertained by taking and recording the ayes and noes, a resolution to elect a treasurer of said district, who shall be the custodian of all moneys belonging to said district, and the disbursing officer of such moneys. If such resolution shall be adopted, such voters shall thereupon elect by ballot a treasurer for said district. No person shall be eligible to the office of treasurer unless he is a qualified voter in, and a taxable inhabitant of said district. Any person elected treasurer at any meeting other than an annual meeting, shall hold office until the next annual meeting after such election, and until his successor shall be elected or appointed, and thereafter a treasurer shall be elected at each annual meeting for the term of one year.

6. To fix the amount in which the collector and treasurer shall give bonds for the due and faithful performance of the duties of their offices.

7. To designate a site for a school-house, or, with the consent of the commissioner or commissioners within whose district or districts the school-house lies, to designate sites for two or more school-houses for the district. Such designation of a site or sites for a school-house can be made only at a

special meeting of the district, duly called for such purpose by a written resolution in which the proposed site shall be described by metes and bounds, and which resolution must receive the assent of a majority of the qualified voters present and voting, to be ascertained by taking and recording the ayes and noes.

8. To vote a tax upon the taxable property of the district to purchase, lease and improve such site or sites or an addition to such site or sites; to hire or purchase rooms or buildings for school-rooms or school-houses, or to build school-houses; and to keep in repair and furnish the same with necessary fuel, furniture and appendages.

9. To vote a tax not exceeding twenty-five dollars in any one year, for the purchase of maps, globes, blackboards and other school apparatus, and for the purchase of text-books and other school necessities for the use of poor scholars of the district.

10. To vote a tax for the establishment of a school library and the maintenance thereof, or for the support of any school library already owned by said district, and for the purchase of books therefor, and such sum as they may deem necessary for the purchase of a book-case.

11. To vote a tax to supply a deficiency in any former tax arising from such tax, being in whole or in part, uncollectible.

12. To authorize the trustees to cause the school-house or school-houses, and their furniture, appendages and school apparatus to be insured by any insurance company created by or under the laws of this state.

13. To alter, repeal and modify their proceedings, from time to time; as occasion may require.

14. To vote a tax for the purchase of a book for the purpose of recording their proceedings.

15. To vote a tax to replace moneys of the district, lost or embezzled by district officers; and to pay the reasonable expenses incurred by district officers in defending suits or appeals brought against them for their official acts, or in prosecuting suits or appeals by direction of the district against other parties.

16. To vote a tax to pay whatever deficiency there may be in teachers' wages after the public money apportioned to the district shall have been applied thereto; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or if they shall vote a tax which shall prove insufficient to cover such deficiency, then the trustees are authorized, and it is hereby made their duty, to raise, by direct tax, any reasonable sum that may be necessary to pay the balance of teachers' wages remaining unpaid, the same as if such tax had been authorized by a vote of the inhabitants.

17. To vote a tax to pay and satisfy of record any judgment or judgments of a competent court which may have been or shall hereafter be obtained in an action against the trustees of the district for unpaid teachers' wages against the trustees of the district, where the time to appeal from said judgment or judgments shall have lapsed, or there shall be no intent to appeal on the part of such district, or the said judgment or judgments is or are or shall be of the court of last resort; but if the inhabitants shall neglect or refuse to vote a tax for this purpose, or, if they vote a tax which shall prove insufficient to fully satisfy said judgment or judgments, then the trustees are authorized and it is hereby made their duty to raise by district tax the amount of said judgment or judgments, or the deficiency which may exist in any tax voted by said inhabitants to pay said judgment or judgments, the same as if such tax had been authorized by a vote of the inhabitants, and the trustees are hereby authorized, and it is hereby made their duty forthwith, after the expiration of thirty days from notice of any judgment or judgments having been entered against the district or the trustees thereof for unpaid teachers' wages, to call a meeting of the inhabitants of said district, who shall have power, as aforesaid, to vote a tax to pay said judgment or judgments; and in case they refuse or neglect to do so, the trustees are authorized, and it is hereby made their duty, unless said judgment or judgments are appealed from, to raise by district tax the amount of said judgment or judgments as hereinbefore provided.

18. In all propositions arising at said district meetings, involving the expenditure of money, or authorizing the levy of


a tax or taxes, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

* 19. Whenever any district shall have contracted with the school authorities of any city or village or other school district for the education therein of the pupils residing in such common school districts, the inhabitants thereof entitled to vote are authorized to provide, by tax or otherwise, for the conveyance of the pupils residing therein to the schools of such city, village or district with which such contract shall have been made, and the trustees thereof may contract for such conveyance when so authorized in accordance with such rules and regulations as they may establish.

§ 15. Election of officers in districts over three hundred. — In school districts in which the number of children of school age exceeds three hundred, as shown by the last annual report of the trustees to the school commissioner, the qualified voters of any such district, at any annual meeting thereof, may by the vote of a majority of those present and voting, to be ascertained by taking and recording the ayes and noes, determine that the election of officers of said district shall be held on the Wednesday next following the day designated by law for holding the annual meeting of said district. Until such determination shall be changed, such election shall be held on the Wednesday next following the day on which such annual meeting of such district shall be held in each year, between the hours of twelve o'clock noon and four o'clock in the afternoon, at the principal school-house in such district, or such other suitable place as the trustees may designate. When the place of holding such election is other than at the principal school-house, the trustees shall give notice thereof by the publication of such notice, at least, one week before the time of holding such election, in some newspaper published in the district, or by posting the same in five conspicuous places in the district. The trustees may, by resolution, extend the time of holding the election from four o'clock until sunset. The trustees shall act as inspectors of election, and if a majority

*Added by section 5, chapter 264, Laws of 1896.

of the trustees shall not be present at the time for opening the polls, those of them in attendance may appoint any of the legal voters of the district present to act as inspectors in place of the absent trustees; and if none of the trustees shall be present at the time of opening the polls, the legal voters present may choose three of their number to act as inspectors. If any such district shall have but one trustee, the legal voters of the district present at the time of opening the polls, may choose two of their number to act with said trustee as inspectors. The district clerk shall attend at the election, and record in a book to be provided for that purpose, the name of each elector as he or she deposits his or her ballot. If the district clerk shall be absent, or shall be unable or refuse to act, the trustees or inspectors of election shall appoint some person who is a legal voter in the district to act in his place. Any clerk or acting clerk at such election who shall neglect or refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars, to be sued for by the supervisor of the town. If any person offering to vote at such election shall be challenged as unqualified, by any legal voter, the chairman of the inspectors shall require the person so offering to vote to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district, and that I am legally qualified to vote at this election." Every person making such declaration shall be permitted to vote; but if any person shall refuse to make such declaration, his or her ballot shall not be received by the inspectors. Any person who, upon being so challenged, shall willfully make a false declaration of his or her right to vote at such election, is guilty of a misdemeanor. Any person who shall vote at such election, not being duly qualified, shall, though not challenged, forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district. The trustees of the district shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each one is voted, and such ballots may be either written or



printed, or partly written and partly printed. The inspectors, immediately after the close of the polls shall proceed to canvass the votes. They shall first count the ballots to determine if they tally with the number of names recorded by the clerk. If they exceed that number, enough ballots shall be withdrawn to make them correspond. Said inspectors shall count the votes and announce the result. The person or persons having a majority of the votes respectively for the several offices shall be elected, and the clerk shall record the result of such ballot and election as announced by the inspectors. Whenever the time for holding such election as aforesaid shall pass without such election being held in any such district, a special election shall be called by the trustees or clerk, and if no such election be called by the trustees or clerk within twenty days after such time shall have passed, the school commissioner or the superintendent of public instruction may order an inhabitant of such district to give notice of such election in the manner provided in the second section of this title; and the officials elected at such special election shall hold their respective offices only until the next annual election, and until their successors are elected and shall have qualified, as in this act provided. All disputes concerning the validity of any such election, or of any votes cast thereat, or of any of the acts of the inspectors or clerk, shall be referred to the superintendent of public instruction, whose decision in the matter shall be final. Such superintendent may, in his discretion, order a new election in any district.

The foregoing provision shall not apply to school districts in cities, nor to union free school districts whose limits correspond with those of an incorporated village, nor to any school district organized under a special act of the legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in common school districts, organized under the general law, nor to any of the school districts in the counties of Richmond, Suffolk, Chenango, Westchester, Warren, Erie and St. Lawrence.

TITLE VIII—ARTICLE 2.

Of the qualifications of voters in union free school districts, and of meetings of such voters and their powers.

*** § 8. Qualifications of voters.**— Every person of full age, residing in any union free school district, and who has resided therein for a period of thirty days next preceding any annual or special meeting held therein, and a citizen of the United States, who owns, or hires, or is in the possession under a contract of purchase, of real property in such school district liable to taxation for school purposes; and every such resident of such district who is a citizen of the United States of twenty-one years of age, and is the parent of a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting; and every such person not being the parent, who shall have permanently residing with him or her a child or children of school age, some one or more of whom shall have attended the district school in said district for a period of at least eight weeks within one year preceding such school meeting; and every such resident and citizen as aforesaid, who owns any personal property assessed on the last preceding assessment-roll of the town, exceeding fifty dollars in value exclusive of such as is exempt from execution, and no other, shall be entitled to vote at any school meeting held in said district, under and pursuant to the provisions of this title. No person shall be deemed to be ineligible to vote at any such school district meeting by reason of sex, who has one or more of the qualifications required by this section. No person shall be eligible to hold any school district office in any union free school district unless he or she is a qualified voter in such district, and is able to read and write. Not more than one member of a family shall be a member of the same board of education in any school district.

§ 9. Levy of tax for school purposes.— The corporate authorities of any incorporated village or city, in which any such union free school shall be established, shall have power, and it shall be their duty, to raise, from time to time, by tax,

*** As amended by section 14, chapter 264, Laws of 1896.**

to be levied upon the real and personal property in said city or village, as by law provided for the defraying of the expenses of its municipal government, such sum or sums as the board of education established therein shall declare necessary for teachers' wages and the ordinary contingent expenses of supporting the schools of said district. The sums so declared necessary shall be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of anticipated expenditure, and the amount necessary for each; and the said corporate authorities shall have no power to withhold the sums so declared to be necessary; and such corporate authorities as aforesaid shall have power, and it shall be their duty to raise, from time to time, by tax as aforesaid, any such further sum or sums to be set forth in a detailed statement in writing, addressed to the corporate authorities by the board of education, giving the various purposes of the proposed expenditure, and the amount necessary for each which may have been or which may hereafter be authorized by a majority of the voters of such union free school district present and voting at any special district meeting duly convened, for making additions, alterations, or improvements to or on the sites or structures belonging to the district, or for the purchase of other sites or structures, or for a change of sites, or for the erection of new buildings, or for buying apparatus or fixtures, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve; and they may direct the moneys so voted to be levied in one sum, or by installments, but no addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any school-house, or for building any new school-house, or for the erection of an addition to any school-house already built, shall be voted at any such meeting unless a notice by the board of education stating that such tax will be proposed, and specifying the amount and object thereof shall have been published once in each week for the four weeks next preceding such district meeting, in two newspapers, if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper

shall then be published therein, the said notice shall be posted up in at least twenty of the most public places in said district twenty days before the time of such meeting. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting, unless the same be done within ten days after the same shall have been first voted. For the purpose of giving effect to these provisions, the corporate authorities are hereby authorized, whenever a tax shall have been voted to be collected in installments for the purpose of building a new school-house, or building an addition to a school-house, or making additions, alterations or improvements to buildings or structures belonging to the district, or for the purchase of a new site, or for an addition to a site, to borrow so much of the sum voted as may be necessary, at a rate of interest not exceeding six per cent, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par. Said bonds or other evidences of indebtedness shall be prepared by the board of education, signed by the president and secretary thereof, and delivered to the treasurer of the incorporated village or city, who shall countersign the same, and give due notice of the time and place of the sale of such bonds, at least ten days prior thereto, by publication twice in two newspapers, if there shall be two, or in one newspaper, if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted up in at least ten of the most public places in said district ten days before the day of sale. The proceeds of the sale of said bonds shall be paid into the treasury of said incorporated village or city, to the credit of the board of education of such district.

*** § 10. Powers of annual and special meetings.**—A majority of the voters of any union free school district, other than those whose limits correspond with an incorporated city or village, present at any annual or special district meeting, duly convened, may authorize such acts and vote such taxes as they shall deem expedient for making additions, alterations or improvements to or in the sites or structures belong-

* As amended by section 15, chapter 264, Laws of 1896.

ing to the district, or for the purchase of other sites or structures, or for a change of sites, or for the erection of new buildings, or for buying apparatus, or fixtures, or for paying the wages of teachers and the necessary expenses of the school, or for such other purpose relating to the support and welfare of the school as they may, by resolution, approve; the designation of a site or sites by the district meeting shall be by written resolution containing a description thereof by metes and bounds, and such resolution must receive the assent of a majority of the qualified voters present and voting at said meeting, to be ascertained by taking and recording the ayes and noes. On all propositions arising at said meeting involving the expenditure of money, or authorizing the levy of a tax or taxes in one sum or by installments, the vote thereon shall be by ballot, or ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such meetings; and they may direct the moneys so voted to be levied in one sum, or by installments, but no addition to or change of site or purchase of a new site or tax for the purchase of any new site or structure, or for the purchase of an addition to the site of any school-house, or for building any new school-house, or for the erection of an addition to any school-house already built, shall be voted at any such meeting unless a notice by the board of education stating that such tax will be proposed, and specifying the amount and object thereof, shall have been published once in each week for the four weeks next preceding such district meeting, in two newspapers if there shall be two, or in one newspaper if there shall be but one, published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least twenty of the most public places in said district twenty days before the time of such meeting. And whenever a tax for any of the objects hereinbefore specified shall be legally voted the boards of education shall make out their tax-list, and attach their warrant thereto, in the manner provided in article seven of title seven of this act, for the collection of school district taxes, and shall cause such taxes or such installments to be collected at such times as they shall

become due. No vote to raise money shall be rescinded, nor the amount thereof be reduced at any subsequent meeting unless it be an adjourned meeting or a meeting called by regular and legal notice, which shall specify the proposed action, and at which the vote upon said proposed reduction or rescinding shall be taken by ballot or by taking and recording the ayes and noes of the qualified voters attending and voting thereat. For the purpose of giving effect to these provisions, trustees or boards of education are hereby authorized, whenever a tax shall have been voted to be collected in installments for the purpose of building a new school-house or building an addition to a school-house, or making additions, alterations or improvements to buildings or structures belonging to the district, or for the purchase of a new site, or for an addition to a site, to borrow so much of the sum voted as may be necessary at a rate of interest not exceeding six per centum, and to issue bonds or other evidences of indebtedness therefor, which shall be a charge upon the district, and be paid at maturity, and which shall not be sold below par; due notice of the time and place of the sale of such bonds shall be given by the board of education at least ten days prior thereto by publication twice in two newspapers, if there be two, or one newspaper if there be but one published in such district. But if no newspaper shall then be published therein, the said notice shall be posted in at least ten of the most public places in said district ten days before the sale. It shall be the duty of the trustees or the persons having charge of the issue or payment of such indebtedness, to transmit a statement thereof to the clerk of the board of supervisors of the county in which such indebtedness is created, annually, on or before the first day of November.

§ 11. **Tax for teachers' wages.**— All moneys required to pay teachers' wages in a union free school or in the academic department thereof, after the due application of the school moneys thereto, shall be raised by tax.

§ 12. Every union free school district shall, for all the purposes of the apportionment and distribution of school moneys, be regarded and recognized as a school district.

TITLE VIII—ARTICLE 3.

Of annual and special meetings, and of election of members of boards of education and clerks in districts where the number of children exceeds three hundred.

§ 13. Annual and special meetings in union free school districts.— 1. In union free school districts other than those whose limits correspond with those of any incorporated village or city, the annual school meeting shall be held on the first Tuesday of August. The boards of education shall have power to call special meeting of the inhabitants of their respective districts whenever they shall deem it necessary and proper, in the manner prescribed in section ten of this title, and shall in like manner give notice of the time and place of holding the annual school district meeting. The proceedings of any special meeting shall not be held to be illegal for want of a due notice to all persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent. The annual meeting of the board of education of every such union free school district shall be held on the Tuesday next after the annual school district meeting therein.

2. In union free school districts whose limits correspond with those of any incorporated village or city, the boards of education shall have power to call special meetings of the inhabitants of their respective districts for the purposes mentioned in section nine of this title, in the manner prescribed in said section nine. The proceedings of any special meeting shall not be held to be illegal for want of due notice to all persons qualified to vote thereat unless it shall appear that the omission to give such notice was willful and fraudulent. The annual meeting of the board of education of every such union free school district shall be held on the Tuesday next after the canvass and declaration of the election of the members of said board at the annual charter election of the village or city.

***§ 14. Election of board and clerk in districts over 300.**— In union free school districts other than those whose limits correspond with those of an incorporated village or city, in which the number of children of school age exceeds three

* As amended by section 2, chapter 466, Laws of 1897.

hundred, as shown by the last annual report of the board of education to the school commissioner, the qualified voters of any such district may by a vote of a majority of those present and voting, at any annual meeting, or at any duly called special meeting, to be ascertained by taking and recording the ayes and noes, determine that the election of the members of the board of education shall be held on the Wednesday next following the day designated by law for holding the annual meeting of said district. Until such determination shall be changed, such election shall be held on the Wednesday next following the day on which such annual meeting of such district shall be held, in each year, between the hours of twelve o'clock noon, and four o'clock in the afternoon at the principal school-house in the district, or at such other suitable place as the trustees may designate. When the place of holding such election is other than at the principal school-house, the trustees shall give notice thereof by the publication of such notice, at least one week before the time of holding such election, in some newspaper published in the district, or by posting the same in three conspicuous places in the district. The trustees may, by resolution, extend the time of holding the election from four o'clock until sunset. The board of education, or such of them as may be present, shall act as inspectors of election. If a majority of such board shall not be present at the time of opening the polls, those members of the board in attendance may appoint any of the legal voters of the district present, to act as inspectors in place of the absent trustees; and if none of the board of education shall be present at the time of opening the polls, the legal voters present may choose three of their number to act as inspectors. The clerk of the board of education, shall attend at the election and record in a book to be provided for that purpose, the name of each elector as he or she deposits his or her ballot. If the clerk of the board of education shall be absent, or shall be unable or refuse to act, the board of education or inspectors of election shall appoint some person who is a legal voter in the district to act in his place. Any clerk or acting clerk who shall neglect or

refuse to record the name of a person whose ballot is received by the inspectors, shall be liable to a fine of twenty-five dollars, to be sued for by the supervisor of the town. If any person offering to vote at any such election shall be challenged and found unqualified by any legal voter, the chairman of the inspectors shall require the person so offering to vote to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district, and that I am legally qualified to vote at this election." And every person making such declaration shall be permitted to vote; but if any person shall refuse to make such declaration his or her ballot shall not be received by the inspectors. Any person who upon being so challenged shall willfully make a false declaration of his or her right to vote at such election, is guilty of a misdemeanor. Any person who shall vote at such election, not being duly qualified, shall, though not challenged, forfeit the sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district. The board of education shall, at the expense of the district, provide a suitable box in which the ballots shall be deposited as they are received. Such ballots shall contain the names of the persons voted for, and shall designate the office for which each one is voted. The ballots may be either written or printed, or partly written and partly printed. The inspectors immediately after the close of the polls shall proceed to canvass the votes. They shall first count the ballots to determine if they tally with the number of names recorded by the clerk, and if they exceed that number, enough ballots shall be withdrawn to make them correspond. Such inspectors shall count the votes and announce the result. The person or persons having a majority of the votes respectively for the several offices shall be elected, and the clerk shall record the result of such ballot and election as announced by the inspectors. Whenever the time for holding such election as aforesaid shall pass without such election being held in any such district, a special election shall be called by the board of education, but if no such election be called by said board within twenty days after such time shall have passed, the school commissioner or the

state superintendent of public instruction may order any inhabitant of said district to give notice of such election in the manner prescribed by section ten of this title ; and the officers elected at such special election shall hold their respective offices only until the next annual election, and until their successors are elected and shall have qualified as in this act provided. All disputes concerning the validity of any such election, or of any votes cast thereat, or of any of the acts of the inspectors or clerks, shall be referred to the superintendent of public instruction, whose decision in the matter shall be final. Such superintendent may, in his discretion, order a new election in any district. The foregoing provisions shall not apply to union free school districts in cities, nor to union free school districts whose boundaries correspond with those of an incorporated village, nor to any school district organized under a special act of the legislature, in which the time, manner and form of the election of district officers shall be different from that prescribed for the election of officers in union free school districts, organized under the general law, nor to any of the union free school districts in the counties of Suffolk, Chenango, Warren, Erie and Saint Lawrence. In Richmond county, whenever any district shall have determined to hold its annual election on Wednesday following the date of its annual school meeting, the same shall be held between the hours of four o'clock and nine o'clock in the evening.

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